

# **ANTISEIZURE MEDICATION GUIDE**

**January, 2013**

# ANTISEIZURE MEDICATION GUIDE

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## **Introduction**

The purpose of this Guide is to assist school personnel in ensuring a safe learning environment for pupils with epilepsy. This Guide will assist school personnel with the management, response and administration of emergency antiseizure medication to pupils with epilepsy suffering from seizures. Epilepsy can be a life-threatening condition. Some people with epilepsy are at special risk for abnormally prolonged seizures.

Senate Bill (SB) 161 pertaining to the administration of emergency antiseizure medication by trained volunteer nonmedical school personnel, codified in California Education Code section 49414.7, became effective January 1, 2012. Section 49414.7 authorizes unlicensed school employees, in the absence of a school nurse or other licensed health care professional at school, to administer Food and Drug Administration (FDA) approved antiseizure medication to pupils who suffer seizures at school, upon request of a parent or guardian.

Pursuant to Section 49414.7, school districts may elect to participate in a program to allow nonmedical school employees to volunteer to provide medical assistance to pupils with epilepsy suffering from seizures upon request by a parent or guardian. School districts electing to participate in a program must recruit for and provide volunteer nonmedical school employees with voluntary emergency medical training from a licensed health care professional such as a physician, physician assistant, credentialed school nurse, registered nurse, or certificated public health nurse.

School districts that elect to participate in a program to allow nonmedical school employees to volunteer to administer an emergency antiseizure medication must have a plan to:

- Identify existing licensed staff within the district or region who could be trained in the administration of an emergency antiseizure medication and could be available to respond to an emergency need to administer an emergency antiseizure medication
- Identify pupils who may require the administration of emergency antiseizure medication
- Require written authorization from a parent/guardian for a volunteer nonmedical school employee to administer an emergency antiseizure medication
- Maintain a written statement from the pupil's health care practitioner authorizing the administration of an emergency antiseizure medication
- Require a parent/guardian to notify the school if the pupil has had an emergency antiseizure medication administered within the past four hours on a school day
- Notify the parent/guardian that an emergency antiseizure medication has been administered at school

School districts electing to participate in a program to allow nonmedical school employees to volunteer to administer an emergency antiseizure medication to a pupil, should also review and update their board policies and administrative regulations related to the administration of medication in order to ensure the provisions of Education Code section 49414.7 are incorporated.

This Guide is organized in seven sections and includes an overview of epilepsy, tools for school personnel to effectively assist pupils with epilepsy who suffer from seizures at school, overview of laws that address schools' responsibilities for students with epilepsy, including confidentiality requirements, requisite training for volunteer nonmedical school personnel, model forms, and resources.

## Summary of Education Code section 49414.7

Education Code section 49414.7 authorizes the administration of antiseizure medications in schools in emergency situations. Section 49414.7 establishes procedures for school districts that elect to allow volunteer nonmedical school personnel to administer emergency antiseizure medication at school. Section 49414.7 sets forth the following guiding principles:

- School personnel who volunteer under no duress from school administrators and who have been properly trained by an authorized licensed health care professional may administer emergency antiseizure medication, including *Diastat*, to a student in an emergency situation based on that student's Individualized School Health Plan (ISHP), Section 504 Plan, or Individualized Education Program (IEP).
- If a school nurse is available on site and able to reach the student within the time frame for administration specified in that student's ISHP, Section 504 Plan or IEP developed in accordance with the Seizure Plan, then the nurse shall provide this service to the student.
- The school nurse is responsible for maintaining and updating each ISHP, Section 504 Plan or IEP as it relates to the administration of medication for a pupil.
- Training of volunteer nonmedical school personnel shall be conducted prior to the administration of emergency antiseizure medication with demonstrated competency to administer emergency antiseizure medication documented in their respective personnel files.
- When a trained volunteer administers an emergency antiseizure medication, the school nurse and pupil's parent/guardian shall be notified, and school officials shall immediately call 911 to provide necessary monitoring as part of the basic emergency follow-up procedures.
- Recruitment for volunteers to administer an emergency antiseizure medication, may be conducted twice per school year per child, via electronic notice., Each employee who volunteers to administer emergency antiseizure medication will be provided defense and indemnification by the school district for any and all civil liability. This assurance shall be provided in writing to the volunteer and retained in the volunteer's personnel file.
- Prior to administration of emergency antiseizure medication to a student by a school nurse or a trained volunteer nonmedical school personnel, the student's parent/guardian shall annually provide the school with a: 1) Written authorization to administer the medication at school, and 2) Written statement from the student's physician which shall include the student's name, the name and purpose of the medication, the prescribed dosage, detailed seizure symptoms, the method and frequency of administration, the specific circumstances under which the medication may be administered, any potential adverse response, and a protocol for observing the pupil after a seizure. Any changes to the prescribed medication will require new authorizations.

## Solicitation for Volunteer Nonmedical School Personnel

School districts electing to participate in a program to allow nonmedical school employees to volunteer to administer an emergency antiseizure medication to a pupil may solicit volunteers upon request by a parent/guardian (**see Sample Parent Notice**). The sole means by which a school district may solicit volunteer nonmedical school personnel to administer an emergency antiseizure medication to a pupil experiencing a severe epileptic seizure is to distribute an electronic notice no more than twice per school year per child to all staff that states the following information in bold print (**see Sample Electronic Notice to All Staff**):

- Description of the voluntary request stating the recruitment is for volunteers to administer an emergency antiseizure medication to a pupil experiencing a severe epileptic seizure, in the absence of a school nurse, and that this emergency antiseizure medication is an FDA approved, predosed, rectally administered gel that reduces the severity of the seizures
- Description of the training the volunteer will receive
- Description of the voluntary nature of the volunteer program, including the prohibition of coercing, intimidating, threatening or attempting to coerce, intimidate, threaten staff who do not choose to volunteer
- Set forth the volunteer rescission timelines

For employees who do not have email accounts or do not have access to email, school districts should follow the same procedure used to disseminate information to employees that do not have email accounts or are unable to receive emails.

For those school district employees who return the signed notice agreeing to volunteer to administer emergency antiseizure medication to a pupil, a copy of the signed notice should be placed in the employee's personnel file in accordance with Education Code section 49414.7(i). Additionally, school districts wishing to emphasize the defense and indemnification provision set forth in Education Code section 49414.7(i) may distribute a separate memo to the volunteer and place a copy in the employee's personnel file. (**See Sample Memo on Defense/Indemnification.**)

## Training for Volunteer Nonmedical School Personnel

Volunteer nonmedical school personnel who volunteer to administer emergency medical assistance to pupils with epilepsy suffering from seizures must be informed of the following:

- Their agreement to administer an emergency antiseizure medication is voluntary
- They must complete the required training
- They will not administer an emergency antiseizure medication until they have completed the required training and documentation of completion is recorded in their personnel file
- They may rescind their offer to administer an emergency antiseizure medication **up to** three (3) days after completion of the training; **after** three (3) days of completing the training they may rescind their offer to administer an emergency antiseizure medication with a two (2) week notice, or until a new individual ISHP or Section 504 Plan is developed for an affected pupil, whichever is less
- They will be provided defense and indemnification by the school district for any and all civil liability, in accordance with, but not limited to Government Code section 810 *et seq.*

- They will be compensated in accordance with their pay scale as set forth in Education Code section 45128, when the administration of an emergency antiseizure medication and subsequent monitoring of a pupil requires a volunteer to work beyond their normally scheduled hours
- If they have not administered an emergency antiseizure medication within the past two (2) years and there is a pupil in the school who may need the administration of an emergency antiseizure medication, they must be retrained in order to retain the ability to administer an emergency antiseizure medication
- They must report every administration of antiseizure medication to the school administrator

### ***Who Can Train?***

The training and supervision of volunteer nonmedical school personnel to administer emergency medical assistance to pupils with epilepsy suffering from seizure includes one or more of the following authorized licensed health care professionals:

- A physician and surgeon
- A physician assistant
- A credentialed school nurse
- A registered nurse
- A certificated public health nurse

In addition, organizations such as the Epilepsy Alliance of Orange County or its affiliates, or other organizations with an authorized licensed health care professional may provide such training for school districts. (See **OPAD 12-48 for additional information on training.**)

### ***Training Content***

The training provided by one of the authorized licensed healthcare professionals must be provided in accordance with the emergency antiseizure medication manufacturer's instructions, the pupil's healthcare provider, and in accordance with Education Code section 49414.7. The training shall include, but not be limited to, **all** of the following:

- Recognition and treatment of different types of seizures
- Administration of an FDA approved emergency antiseizure medication
- Basic emergency follow-up procedures, including a requirement for the school administrator or another school staff member to call 911 and to contact the pupil's parent/guardian. Calling 911 shall not require a pupil to be transported to an emergency room
- Techniques and procedures to ensure pupil privacy
- Record-keeping and record retention, including documenting each actual administration of an emergency antiseizure medication, the pupil's name, the name of the medication administered, the dose given, the date and time of administration, the length of the seizure, and observation and action taken after the seizure

The California Department of Education (CDE) has developed guidelines for training and supervision of volunteer nonmedical school personnel which should be considered by school districts in developing their training content.<sup>1</sup> Any written materials used in the training must be retained by the school district. Training may be provided on or off school grounds.

## **Seizures, Convulsions and Epilepsy<sup>2</sup>**

### ***What is Epilepsy?***

**Statistics:** Epilepsy is a complex neurological condition that is characterized by two or more unprovoked seizures that occur in a person's lifetime. There are over 20 different types and 20 different epilepsy syndromes. One in 50 children will have epilepsy at some point during childhood. There are more than 32,000 people with epilepsy in Orange County, including 12,000 children. Epilepsy is the third most common neurological condition in the U.S. behind Alzheimer's and stroke, and is the most common neurological condition for children.

**Causes:** Epilepsy can be caused by insult or injury to the brain, illness such as meningitis, stroke, cortical dysplasia (underdeveloped area in the brain) or genetic conditions and syndromes. Thirty percent of the time, the cause of epilepsy is known. Some types of epilepsy run in families, but most do not. People with certain other medical conditions such as autism and cerebral palsy have a higher risk of having epilepsy. There are many different syndromes that include seizures as one of the symptoms, such as tuberous sclerosis. Seventy percent of the time, no cause is found. This is called "idiopathic" epilepsy. Epilepsy can begin at any time in a person's life. The highest incidence is in children from 0-2 years old and in seniors over 60. Epilepsy is not a mental illness and is not contagious.

**Diagnosis:** Epilepsy specialists called epileptologists are neurologists with specialized training in the diagnosis and treatment of epilepsy. Epilepsy can be diagnosed by a physician or other health care provider based on the patient's medical history, examination and medical tests such as an Electroencephalogram or **EEG**, a test where electrodes are placed on the scalp and the electrical activity in the brain is observed. The doctor can see whether brain waves are normal or abnormal, and where abnormal activity is focused. A **Telemetry** test is a combination of EEG and video done at the same time in the hospital. The doctor can see what a person's brain waves are doing while at the same time observing what the person is doing via imaging studies such as **MRI, PET, SPECT, MEG**, etc. Each type of study gives different information about what is happening in the brain, such as blood flow, metabolism, location of lesions, etc.

**Treatment:** Sixty to seventy percent of people with epilepsy achieve seizure control with treatment. Thirty to forty percent do not achieve control and struggle to find an effective treatment. Epilepsy medication (also called AEDs – antiepileptic drugs – or anti-convulsants are the first line of defense against epilepsy. Certain medications are used to treat certain types of seizures. If a medication fails to control seizures, a second or third medication can be added, or changes can be made. *Diastat* is a management tool and is used in a medical emergency when seizures occur in some children with epilepsy.

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<sup>1</sup> CDE: [www.cde.ca.gov/ls/he/hn/epilepsymedadmin.asp](http://www.cde.ca.gov/ls/he/hn/epilepsymedadmin.asp).

<sup>2</sup> We gratefully acknowledge the Epilepsy Alliance of Orange County for the information in the *Seizures, Convulsions and Epilepsy* section of this Guide which may be accessed at [www.epilepsyalliance.org](http://www.epilepsyalliance.org). See, also the Centers for Disease Control website, <http://www.cdc.gov/epilepsy/>.

*Diastat* is valium in a gel form that is administered rectally when a person has a seizure that does not stop (in general after 5 minutes). This type of seizure is called “status” or “status epilepticus” and is a medical emergency. *Diastat* is prescribed for the individual by his/her doctor and is called a “rescue medication.” It can help people with epilepsy avoid unnecessary ambulance trips to the emergency room and can stop a seizure before it becomes life-threatening.

### ***What is a Seizure/Convulsion?***

A seizure (or convulsion) is an abnormal burst of electrical activity in the brain causing something to happen outside of the individual’s control. A seizure can manifest itself in the body in almost any form, depending on what part of the brain is being stimulated. A seizure could be a feeling of fear, anxiety or euphoria, a sudden startle, a visual disturbance, a sensation of nausea, an arm lifting by itself, chewing or picking at clothing, or full blown shaking and stiffening of the body. Some individuals with epilepsy experience an aura, which is a feeling that they are going to have a seizure. An aura is actually the very beginning part of a seizure.

Seizures can be provoked or unprovoked. **Provoked seizures** are caused by a stress on the body such as a very high fever, very low blood sugar, head injury, etc. Provoked seizures can happen to anyone even if they don’t have epilepsy. About 1 in 10 people will have a provoked seizure during their lifetime. **Unprovoked seizures** occur when the brain produces abnormal bursts of electricity spontaneously. People with epilepsy experience unprovoked seizures.

**Seizure Types:** Seizures are generally classified into two categories: Partial and Generalized. **Partial seizures** occur when part of the brain is experiencing abnormal electrical activity. Partial seizures can be either simple (no loss of consciousness) or complex (loss of consciousness). Partial seizures are the most common seizure type. **Generalized seizures** occur when the whole brain is affected. These seizures cause whole body involvement such as falling, stiffening, shaking, and loss of consciousness. The most recognized type of seizure is a generalized seizure that used to be called a “grand mal” seizure, now called a “tonic-clonic” seizure. Absence or “petit mal” seizures are another common type of generalized seizures.

**Seizure Triggers:** In a person who has epilepsy, a seizure trigger is something in the environment that can provoke an epileptic seizure. Triggers are individual for each person and should be avoided if known. **Common seizure triggers** include: flashing lights, fluorescent lights, stress, lack of sleep, emotional states, overexertion, illness and fever, overheating, etc. The number one cause of a person having a seizure after being controlled is failure to take his or her medication. This can occur because of non-compliance, forgetfulness, or failure to get a prescription refilled.

**Seizures Requiring First Aid:** The types of seizures that require first aid are: tonic clonic, complex partial, which may generalize, status epilepticus or prolonged seizures, clusters of seizures. Seizures that do not need first aid but should be monitored and reported are: absence, infantile spasms, atonic, myoclonic.

## **Effective Epilepsy Management at School**

### ***Minimizing Seizure Triggers***

The goal of effective epilepsy management is to prevent or control seizure activity as determined by the student's personal health care team. The key to preventing epileptic seizures is to balance carefully the prescribed medication and minimize seizure triggers. A seizure trigger is something in the environment that can provoke an epileptic seizure. Triggers are individualized and should be avoided if known.

Epileptic seizures can manifest themselves in the body in almost any form, depending on what part of the brain is being stimulated. A seizure may be a feeling of fear, anxiety or euphoria, a sudden startle, a visual disturbance, a sensation of nausea, an arm lifting by itself, chewing or picking at clothing, or full blown shaking and stiffening of the body. An aura is actually the very beginning part of a seizure. Seizures can be life-threatening and present the greatest immediate danger to people with epilepsy.

### ***Designating Trained Epilepsy Personnel***

School personnel need to be prepared to provide epilepsy care at school and at all school-sponsored activities in which a student with epilepsy participates. The school nurse is the most appropriate person in the school setting to provide care for a student with epilepsy. Many schools, however, do not have a full-time nurse, and sometimes a single nurse must cover more than one school. Moreover, even when a nurse is assigned to a school full time, she/he may not always be available during the school day, during extracurricular activities, or on field trips. The school nurse or other qualified health care professional plays a major role in identifying and training appropriate staff as well as providing professional supervision and consultation regarding routine and emergency care of the student with epilepsy.

Nonmedical school personnel—called “volunteer nonmedical school personnel” in this Guide—can be trained and supervised to administer emergency antiseizure medication in the school setting. Recruitment of volunteers may be conducted twice per school year, per child, via electronic notice. In addition to receiving training on how to administer emergency antiseizure medication, trained volunteer nonmedical school personnel should receive student-specific training and be supervised by the school nurse or another qualified health care professional.

The school nurse has a critical role in training and supervising volunteer nonmedical school personnel to ensure the health and safety of students with epilepsy. Given the rapid changes in therapies and evidence-based practices, the school nurse who provides care to students with epilepsy and facilitates the administration of emergency antiseizure medication training for school personnel, has the professional responsibility to acquire and maintain knowledge and competency related to epilepsy management.

### ***Assembling a School Health Team***

Collaboration and cooperation are key elements in planning and implementing successful epilepsy management at school. Students with epilepsy are more likely to succeed in school when the student's school health team and the student's personal epilepsy health care team (i.e., student's personal physicians) work together.

To work collaboratively, a school health team should be assembled that includes people who are knowledgeable about epilepsy, the school environment, and federal and state education and nursing laws. School health team members should include the student with epilepsy, when appropriate, the parent/guardian, the school nurse, and other school health care personnel, the staff designated as volunteer nonmedical school personnel, administrators, the school principal, the Section 504 coordinator, and the student's teacher(s)

The members of the school health team work together to implement the medical orders in the Emergency Seizure Action Plan developed by the student's personal epilepsy health care team, using the strategies outlined by the school nurse in the ISHP. In addition, the school health team should be part of the group that develops and implements the student's Section 504 Plan or IEP. The school health team members are required to communicate with other appropriate school staff (e.g., the volunteer nonmedical school personnel, bus driver, coach, lunchroom staff, etc.) to ensure the proper implementation of the student's ISHP, Section 504 Plan or IEP.

### ***Assembling Health Care Plans***

A parent/guardian's request to train volunteer nonmedical school personnel to administer FDA approved emergency antiseizure medication in the school setting, triggers a school district's obligation to develop an ISHP for the student. ISHP's outline how each student's epilepsy will be managed. These plans help students, their families, school personnel, and the student's personal epilepsy health care team to know what is expected of each of them. These expectations should be set forth in writing as follows:

- Parent Notice/Request to Train Volunteer Nonmedical School Personnel (parent submits)
- Emergency Seizure Action Plan (prepared by the student's personal epilepsy health care team)
- Individualized School Health Plan (prepared by the school nurse)
- Education Plan, if necessary (prepared by Section 504 Team or IEP Team)

### ***Administration of Emergency Antiseizure Medication Plan***

The Emergency Seizure Action Plan contains the medical orders prepared by the student's personal epilepsy health care team. The student's health care provider should sign this plan. The Emergency Seizure Action Plan is the basis for all of the health care and education plans designed to help the student manage epilepsy effectively at school and must be in place for the student's epilepsy care plan to be implemented in the school. This information also should be incorporated into a Section 504 Plan or IEP, if the child has a Section 504 Plan or IEP. Information in the Emergency Seizure Action Plan must include:<sup>3</sup>

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<sup>3</sup> See Title 5 of the California Code of Regulations (CCR) section 626(j) Emergency Regulations.

- Pupil's name
- Name and purpose of the prescribed emergency antiseizure medication approved by the federal FDA for administration by unlicensed personnel
- Prescribed dosage
- Detailed seizure symptoms, including frequency, type, or length of seizures that identify when the administration of an emergency antiseizure medication becomes necessary
- Method of administration
- Frequency in which medication may be administered
- Circumstances under which the medication may be administered
- Potential adverse responses by the pupil and recommended mitigation actions, including when to call emergency 911 services
- Protocol for observing the pupil after a seizure, including, but not limited to, whether the pupil should rest in the school office, whether the pupil may return to class, and the length of time the pupil should be under direct observation
- A statement that following a seizure, the pupil's parent/guardian and the school nurse shall be contacted by the school administrator or, if not available, another school staff member to continue the protocol for observing the pupil after a seizure

The student's personal epilepsy health care team should complete and approve the Emergency Seizure Action Plan before the child attends school, after diagnosis, or when a child transfers to a new school. The Emergency Seizure Action Plan should be reviewed and updated each school year or upon a change in the student's prescribed care plan, school circumstances (e.g. change in schedule), or parents/guardian request.

### ***Individualized School Health Plan/Emergency Care Plan***

The ISHP is a written plan developed by the school nurse in collaboration with the student's personal epilepsy health care team and the family to implement the student's Emergency Seizure Action Plan. The school nurse reviews the ISHP with the student and the parents/guardian before it is implemented and establishes a timeline to revisit the plan periodically to evaluate progress toward desired health goals throughout the school year and distributes the plan to school personnel who have responsibility for students with epilepsy. Information in the ISHP may include:

- Plan to prevent or control epilepsy as set forth in the Emergency Seizure Action Plan
- Parent/Guardian provided medication and supplies needed and where they will be kept (The unexpired prescribed medication shall be supplied to the school nurse in its original package with the dosage locked in by the dispensing pharmacy. At least one month prior to the expiration date of the medication, the school nurse shall inform the student's parent or guardian of the need to provide a new antiseizure medication in the original package)
- Participation in all school-sponsored activities and field trips, with coverage provide by trained epilepsy personnel
- Guidelines for communicating with the family and student's personal health care team
- List of trained epilepsy personnel and the care tasks they will perform
- Plan and timeline to train other school personnel, if necessary
- Strategies to provide accommodations during the school day
- Emergency plans to recognize and treat seizures and what to do in an emergency

- Additional monitoring after seizure
- Maintenance of confidentiality and the student’s right to privacy

### ***Section 504 Plan/IEP***

Upon request of a parent/guardian to have a volunteer nonmedical school employee receive training in the administration of an emergency antiseizure medication in the event a student suffers a seizure when a school nurse is not available, the school shall notify the parent/guardian that his/her child may qualify for services or accommodations under a Section 504 Plan or an IEP (**see Sample Parent Notice**). The school is required to assist the parent/guardian with the exploration of these options and encourage the parent/guardian to develop a plan if it is determined the child is eligible.

The school health team should be part of the group that plans how the Emergency Seizure Action Plan will be implemented and be part of the group that determines the student’s eligibility under Section 504 of the Rehabilitation Act of 1973 (Section 504) or the Individuals with Disabilities Education Act (IDEA) as well as the student’s need for services to manage epilepsy safely and effectively in school. The information should be included in any Section 504 Plan or IEP developed for the student and should be distributed to all school personnel who will be involved with implementing these plans.

- A Section 504 Plan is the commonly used term for a plan of services developed under Section 504. For a student with epilepsy, the plan may be developed and reviewed by a team that usually includes, the parents/guardian, the school nurse, 504 coordinator, school principal, and teacher. **Refer to your school district’s Section 504 procedures.**
- An IEP is required for qualified students with disabilities who receive special education and related services under the IDEA. For a student with epilepsy, the IEP would be developed and reviewed by the IEP team, including the parents/guardian; at least one regular education teacher and one special education teacher of the child, school administrator, school nurse, and at the discretion of the parent/guardian or school district, other personnel with knowledge or special expertise regarding the child. **Refer to your school district’s IDEA procedures.**

Individual students with epilepsy have different needs, but their education plans are likely to address the following common elements:

- Where and when emergency medication administration and monitoring will take place
- Identification of trained epilepsy personnel—the staff members who are trained to perform epilepsy care tasks such as administering emergency antiseizure medication
- Location of the student’s seizure medication and supplies
- Full participation in all school-sponsored activities and field trips, with coverage provided by trained epilepsy personnel
- Alternative times and arrangements for exams if the student experiences a seizure
- Permission for absences for doctor appointments and prolonged illness
- Maintenance of confidentiality and the student’s right to privacy

Additionally, the Family Educational Rights and Privacy Act (FERPA) as well as state pupil records laws protect the student's privacy. FERPA, and state law prohibit the disclosure of personally identifiable information in a student's education record, unless there is a legitimate educational interest or the school obtains prior written consent of the student's parents/guardian or the eligible student (18 years old or older).

## **Sample Forms**

Parent Notice/Request to Train Volunteer Nonmedical School Personnel  
Electronic Notice to All Staff  
Memo to Volunteer Employee regarding Defense and Indemnification  
Emergency Seizure Action Plan and Child Administration Instructions

When developing an ISHP, Section 504 Plan or IEP school districts should use their adopted forms.

## **Resources About Epilepsy**

Education Code section 49414.7

Title 5 California Code of Regulations, Division 1, Chapter 2, Subchapter 3, Article 4.5, *Administration of Emergency Anti-Seizure Medication by Trained Volunteer Nonmedical School Personnel*, section 620 *et seq.*

<http://ccr.oal.ca.gov>

OPAD 12-48 *The Administration of Antiseizure Medication – Questions and Answers*

California Department of Education

<http://www.cde.ca.gov/ls/he/hn/epilepsymedadmin.asp>

Epilepsy Alliance of Orange County

<http://www.EpilepsyAlliance.org>

Centers for Disease Control

<http://www.cdc.gov/epilepsy>

Orange County Department of Education

<http://www.ocde.us/Health/Documents/SPHCS/Diastat.pdf>

**TO BE COPIED ONTO DISTRICT LETTERHEAD**

Date:

Dear Parent/Guardian:

The District is aware that your child has been prescribed emergency antiseizure medication to be administered while at school. The purpose of this notice is to inform you that you may request the District to train a volunteer nonmedical school employee to administer prescribed emergency antiseizure medication to your child while at school in the event a school nurse is not immediately available. Should your child suffer a seizure when the school nurse is not available, Education Code section 49414.7 authorizes school districts to train volunteer nonmedical school personnel to administer emergency antiseizure medication to pupils who suffer seizures at school.

If you wish to request that a volunteer nonmedical school employee be trained to administer prescribed emergency antiseizure medication to your child, the school administrator and/or school nurse will communicate with you regarding your child's specific needs. You will be notified in the event there are no volunteers. Your child may qualify under Section 504 of the Rehabilitation Act of 1973 ("Section 504"), or the Individuals with Disabilities Education Act ("IDEA") for services or accommodations under a Section 504 plan or an individualized education program (IEP), if it is determined your child is eligible for a Section 504 Plan or an IEP. You may request a Section 504 Plan or IEP at any time.

If your child is not eligible for a Section 504 Plan or an IEP, or you chose not to have your child assessed for a Section 504 plan or IEP, the school nurse will develop an individual school health plan (ISHP) specific to your child's needs. As part of this plan you are required to: 1) provide written authorization for a volunteer nonmedical school employee to administer emergency antiseizure medication to your child; 2) provide the required physician's order; 3) provide the prescribed medication and supplies necessary to administer the emergency antiseizure medication; 4) notify the school if your child was administered emergency antiseizure medication in the past four hours of your child attending school; 5) follow District administration of medication procedures; and 6) immediately notify the school nurse if the medication dose is changed or is discontinued.

Education Code section 49414.7 requires the school to call the emergency 911 telephone number and to contact you. The obligation to call emergency 911 does not necessarily require a student to be transported to an emergency room. An assessment and determination to transport will be made based on your child's status.

Please indicate your preference below and sign and return this form in the enclosed envelope.

- Yes, I request that in the event my child suffers a seizure in the absence of a school nurse, that a trained volunteer District employee administer emergency antiseizure medication to my child. (Please complete the attached Authorization for Release of Information form to ensure communication between your child's doctor and school personnel.)
- No, I do not authorize a trained volunteer District employee to administer emergency antiseizure medication to my child in the absence of a school nurse. I understand that 911 will be called to administer medical aid to my child.

Parent/Guardian Signature: \_\_\_\_\_ Date: \_\_\_\_\_

Print Name: \_\_\_\_\_

**TO BE COPIED ONTO DISTRICT LETTERHEAD**

**Date:**  
**To:** All Staff  
**From:**  
**Re:** Solicitation of Volunteer Nonmedical School Personnel

Senate Bill 161 (Huff) added Education Code section 49414.7, effective January 1, 2012. Section 49414.7 authorizes unlicensed school employees to administer emergency antiseizure medication to students who suffer seizures at school.

**The purpose of this notice is to solicit volunteers to administer an emergency antiseizure medication to identified pupils experiencing a severe epileptic seizure, in the absence of a school nurse. This emergency antiseizure medication is a federal FDA approved, predosed, rectally administered gel that reduces the severity of seizures.**

**Volunteers will receive training from a licensed healthcare professional. Administration of this medication involves laying the child on his/her side, covering him/her with a blanket, and inserting a predosed syringe of medicated gel into the child's rectum.**

**Any agreement by an employee to administer an emergency antiseizure medication is strictly voluntary and staff may not be coerced, intimidated or threatened to volunteer. Any employee who volunteers may rescind his/her offer to administer an emergency antiseizure medication up to three (3) day after the completion of the training. After that time, a volunteer may rescind his/her offer to administer an emergency antiseizure medication with a two-week notice, or until a new individual student health plan is developed, whichever is less.**

Employees who volunteer to administer an emergency antiseizure medication will be provided a defense and indemnification by the school district for any and all civil liability, in accordance with, but not limited to Government Code section 810 *et seq.* Furthermore, employees will be compensated in accordance with their pay scale as set forth in Education Code section 45128, when the administration of an emergency antiseizure medication and subsequent monitoring of a pupil requires a volunteer to work beyond their normally scheduled hours.

To volunteer to administer emergency antiseizure medication, please sign and complete the following and return to your principal:

Name: \_\_\_\_\_ (Print Name)

School: \_\_\_\_\_ Position: \_\_\_\_\_

- I wish to volunteer to administer emergency antiseizure medication to identified students.
- I understand that I will be trained by a licensed healthcare professional.
- I understand the rescission timelines in the event that I no longer wish to volunteer.

Signature: \_\_\_\_\_ Date: \_\_\_\_\_

*[District Letterhead]*

To: [Name of Employee]

From:

Date:

Re: Defense and Indemnification for Claims Arising from Administration of Anti-Seizure Medication

You have voluntarily agreed to provide medical assistance to pupils with epilepsy suffering from seizures, upon request by a parent or guardian. Pursuant to Education Code section 49414.7(i), you are hereby informed that the District will provide a legal defense for any civil action or proceeding brought against you, in your official or individual capacity or both, on account of an act or omission in the scope of your employment as an employee of the District.

The District also shall indemnify you (i.e., pay the judgment) for any and all civil liability, in accordance with, but not limited to, that provided in Division 3.6 (commencing with Section 810) of Title 1 of the Government Code. Please contact me if you have any questions regarding the above.

Encl. (Educ. Code § 49414.7)

cc: Personnel File

Notification Date:

2<sup>nd</sup> Notice:

# 2012-13 Emergency Seizure Action Plan

Student Name: \_\_\_\_\_

DOB: \_\_\_\_\_

School: \_\_\_\_\_

Grade: \_\_\_\_\_

Parent/Guardian: \_\_\_\_\_

Phone: \_\_\_\_\_

Cell: \_\_\_\_\_

Physician: \_\_\_\_\_

Phone: \_\_\_\_\_

Fax: \_\_\_\_\_

This student is being treated for a seizure disorder. The information below should assist you if a seizure occurs during school hours.  
**(If the student has a VNS, the student's parents should provide the school a supplemental VNS action protocol)**

*All information in shaded areas must be completed by Physician.*

### SEIZURE INFORMATION TO BE PROVIDED BY PHYSICIAN:

Seizure Type: \_\_\_\_\_ Seizure Length: \_\_\_\_\_ Seizure Frequency: \_\_\_\_\_

Seizure Symptoms: \_\_\_\_\_

Seizure triggers or warning signs: \_\_\_\_\_

Student's reaction to seizure: \_\_\_\_\_

Recommended Procedure: Medication- \_\_\_\_\_ Dosage- \_\_\_\_\_ Directions- \_\_\_\_\_ Side Effects- \_\_\_\_\_

Significant Medical History: \_\_\_\_\_ Allergies: \_\_\_\_\_

Special Considerations & Safety Precautions (i.e. school activities, sports, trips, etc): \_\_\_\_\_

Has student previously been administered emergency Diastat?  No  Yes If yes, list any adverse reactions: \_\_\_\_\_

#### Basic Seizure First Aid Care:

- Stay calm and track time
- Keep child safe and protect head
- Do not restrain
- Do not put anything in mouth
- Provide privacy
- Stay with child until fully conscious
- Loosen constrictive clothing, especially at neck and chest
- Keep airway open and watch breathing and circulation
- Turn child on side
- Record seizure on District seizure log

#### EMERGENCY RESPONSE AT THE FIRST SIGN OF SEIZURE ACTIVITY OR RESPIRATORY DISTRESS:

1. Call School Office Staff
  - A. Office Staff to Deploy school nurse/on-site trained volunteer
    - 911 must be called each time a trained volunteer administers antiseizure medication
  - B. Office Staff Call School Nurse, if not already on campus
  - C. Office Staff Call Parents(s)
2. Note time of onset of seizure
3. If School Nurse on-site, call 911 if seizure does not stop after \_\_\_\_\_ minutes of using *Diastat*
  - If no emergency antiseizure medication is ordered and seizure lasts \_\_\_\_\_ minutes or in clusters > \_\_\_\_\_ seizures in one hour, call 911
4. School nurse/trained volunteer administer \_\_\_\_\_ mg *Diastat* rectally for seizures > \_\_\_\_\_ minutes or in clusters > \_\_\_\_\_ seizures in 1 hour
5. If seizure continues after \_\_\_\_\_ minutes treat again with \_\_\_\_\_ mg *Diastat* rectally. **Do not exceed 2 doses**
6. If child has been given *Diastat* and is not arousable within \_\_\_\_\_ minutes of being administered, call 911
7. If determined by 911 emergency personnel to be necessary, child will be transported to nearest receiving hospital, accompanied by a school staff member if parent is unavailable

#### PROTOCOL FOR OBSERVATION AT SCHOOL AFTER A SEIZURE

- Document seizure per district protocol  Child should rest in nurse's office for \_\_\_\_\_ minutes  Child may return to class
- Contact parent/guardian to pick-up child from school.

#### SEIZURE PROTOCOL DURING SCHOOL HOURS:

A School Nurse is not on site every day. The School Nurse closest to the school site will be notified and dispatched to that school in the event of a seizure that may require medical attention. The School Nurse or trained volunteer school personnel will administer *Diastat* if the physician order is in place and paramedics have not arrived. If the paramedics arrive before the school nurse, they will assume primary responsibility and render care according to their guidelines.

Signature of Student's Physician \_\_\_\_\_

Work Phone \_\_\_\_\_

Fax \_\_\_\_\_

Date \_\_\_\_\_

**Discontinue Administration of Emergency Antiseizure Medication** Physician Signature: \_\_\_\_\_ Date: \_\_\_\_\_

#### PHYSICIAN'S OFFICE STAMP:

**Parent/Guardian signature below indicates agreement to and understanding of the following:**

1. Approval of the above guidelines and permission for information regarding child's condition to be available to school staff and placed as a Health Alert in student's health folder.
2. Completion of all authorization forms and providing medication orders from physician to administer medication.
3. Responsibility to inform the school nurse of any changes in child's health status, medication, or treatment plan, and provide new physician order.
4. Responsibility to inform the school nurse that an emergency anti-seizure medication has been administered within the last four (4) hours on a school day.
5. Provide District with written consent to allow the school nurse and/or District medical consultant to communicate directly with the student's healthcare provider.
6. Communicate to school staff if Diastat has been given over three times in one week as this may present a risk factor for respiratory distress or pulmonary and cardiac compromise. This information must be available to prevent Diastat toxicity or adverse reactions if another medication such as Versed is used.
7. Maintain current phone numbers with school nurse and school office in case 911 is called.
8. Provide the necessary supplies and equipment ( i.e. Diastat, gloves, lubricant, drape), including 3-day emergency supply of medication.
9. This authorization is for a maximum of one year.

**I understand that seizure medication can only be administered to my child if the District has received ALL of the following:**

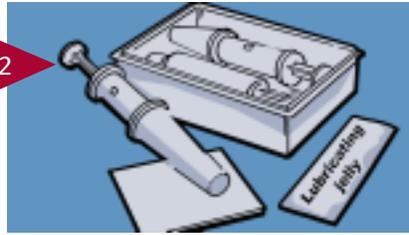
- 1) **Current authorized healthcare provider order to administer medication;**
- 2) **Pharmacy labeled medication in original package;**
- 3) **Parent/Guardian signed authorization to administer medication; and**
- 4) **If requested, Parent/Guardian written authorization for a trained volunteer nonmedical school employee to administer emergency antiseizure medication to student.**

Parent/Guardian	Home Phone	Work Phone	Cell/Pager	Date
District Registered Nurse		Work Phone		Date
Site Principal		Work Phone		Date

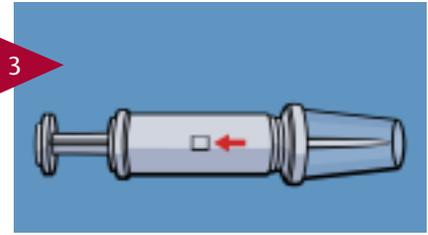
# CHILD ADMINISTRATION INSTRUCTIONS



1 Put person on their side where they can't fall.



2 Get medicine.



3 Get syringe. *Note: seal pin is attached to the cap.*



4 Push up with thumb and pull to remove cap from syringe. **Be sure seal pin is removed with the cap.**



5 Lubricate rectal tip with lubricating jelly.



6 Turn person on side facing you.



7 Bend upper leg forward to expose rectum.



8 Separate buttocks to expose rectum.



9 Gently insert syringe tip into rectum. *Note: rim should be snug against rectal opening.*

**SLOWLY...**

**COUNT OUT LOUD TO THREE...1...2...3**



10 Slowly count to 3 while gently pushing plunger in until it stops.



11 Slowly count to 3 before removing syringe from rectum.



12 Slowly count to 3 while holding buttocks together to prevent leakage.

**ONCE DIASTAT® IS GIVEN**



## DIASTAT® Indication

DIASTAT® AcuDial™ (diazepam rectal gel) is a gel formulation of diazepam intended for rectal administration in the management of selected, refractory patients with epilepsy, on stable regimens of AEDs, who require intermittent use of diazepam to control bouts of increased seizure activity, for patients 2 years and older.

## Important Safety Information

In clinical trials with DIASTAT®, the most frequent adverse event was somnolence (23%). Less frequent adverse events reported were dizziness, headache, pain, vasodilatation, diarrhea, ataxia, euphoria, incoordination, asthma, rash, abdominal pain, nervousness, and rhinitis (1%–5%).

Keep person on the side facing you, note time given, and continue to observe.

## CALL FOR HELP IF ANY OF THE FOLLOWING OCCUR

- Seizure(s) continues 15 minutes after giving DIASTAT® or per the doctor's instructions:

- Seizure behavior is different from other episodes
- You are alarmed by the frequency or severity of the seizure(s)
- You are alarmed by the color or breathing of the person
- The person is having unusual or serious problems

Local emergency number: \_\_\_\_\_ Doctor's number: \_\_\_\_\_  
(Please be sure to note if your area has 911)

Information for emergency squad: Time DIASTAT® given: \_\_\_\_\_ Dose: \_\_\_\_\_

**Diastat®**  
(diazepam rectal gel)

**Diastat® AcuDial™**  
(diazepam rectal gel) 

**DISPOSAL INSTRUCTIONS ON REVERSE SIDE**

**IMPORTANT**

**Read first before using**

To the caregiver using DIASTAT<sup>®</sup>:

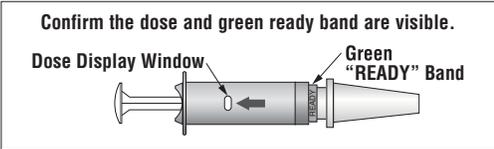
Please do not give DIASTAT<sup>®</sup> until:

1. You have thoroughly read these instructions
2. Reviewed administration steps with the doctor
3. Understand the directions

To the caregiver using Diastat<sup>®</sup> AcuDial<sup>™</sup>:

Please do not give DIASTAT<sup>®</sup> AcuDial<sup>™</sup> until:

1. You have confirmed:
  - Prescribed dose is visible and if known, is correct
  - Green "ready" band is visible



2. You have thoroughly read these instructions
3. Reviewed administration steps with the doctor
4. Understand the directions

Please do not administer DIASTAT<sup>®</sup> until you feel comfortable with how to use DIASTAT<sup>®</sup>. The doctor will tell you exactly when to use DIASTAT<sup>®</sup>. When you use DIASTAT<sup>®</sup> correctly and safely you will help bring seizures under control. Be sure to discuss every aspect of your role with the doctor. If you are not comfortable, then discuss your role with the doctor again.

**To help the person with seizures:**

- ✓ You must be able to tell the difference between cluster and ordinary seizures.
- ✓ You must be comfortable and satisfied that you are able to give DIASTAT<sup>®</sup>.
- ✓ You need to agree with the doctor on the exact conditions when to treat with DIASTAT<sup>®</sup>.
- ✓ You must know how and for how long you should check the person after giving DIASTAT<sup>®</sup>.

**To know what responses to expect:**

- ✓ You need to know how soon seizures should stop or decrease in frequency after giving DIASTAT<sup>®</sup>.
- ✓ You need to know what you should do if the seizures do not stop or there is a change in the person's breathing, behavior, or condition that alarms you.

If you have any questions or feel unsure about using the treatment, **CALL THE DOCTOR** before using DIASTAT<sup>®</sup>.

**Where can I find more information and support?**

For information on DIASTAT<sup>®</sup> and DIASTAT<sup>®</sup> AcuDial<sup>™</sup>:

Call 1-877-361-2719 or visit [www.diastat.com](http://www.diastat.com)

**Additional resource:**

Epilepsy Foundation (EF). You can reach EF by calling 1-800-EFA-1000 or [www.efa.org](http://www.efa.org).

When to treat. Based on the doctor's directions or prescription

**Special considerations**

DIASTAT<sup>®</sup> should be used with caution:

- In people with respiratory (breathing) difficulties (eg, asthma or pneumonia)
- In the elderly
- In women of child bearing potential, pregnancy, and nursing mothers

Discuss beforehand with the doctor any additional steps you may need to take if there is leakage of DIASTAT<sup>®</sup> or a bowel movement.

Patient's DIASTAT<sup>®</sup> dosage is: \_\_\_\_\_ mg

Patient's resting breathing rate \_\_\_\_\_ Patient's current weight \_\_\_\_\_

Confirm current weight is still the same as when DIASTAT<sup>®</sup> was prescribed \_\_\_\_\_

**Check expiration date and always remove cap before using. Be sure seal pin is removed with the cap.**

**TREATMENT 1**

Important things to tell the doctor

Date	Seizures before DIASTAT <sup>®</sup>			Seizures after DIASTAT <sup>®</sup>		
	Time	Seizure type	No. of seizures	Time	Seizure type	No. of seizures
_____	_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____	_____

**Things to do after treatment with DIASTAT<sup>®</sup> AcuDial<sup>™</sup>**

Stay with the person for 4 hours and make notes on the following:

- Changes in resting breathing rate \_\_\_\_\_
- Changes in color \_\_\_\_\_
- Possible side effects from treatment \_\_\_\_\_

**TREATMENT 2**

Important things to tell the doctor

Date	Seizures before DIASTAT <sup>®</sup>			Seizures after DIASTAT <sup>®</sup>		
	Time	Seizure type	No. of seizures	Time	Seizure type	No. of seizures
_____	_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____	_____

**Things to do after treatment with DIASTAT<sup>®</sup> AcuDial<sup>™</sup>**

Stay with the person for 4 hours and make notes on the following:

- Changes in resting breathing rate \_\_\_\_\_
- Changes in color \_\_\_\_\_
- Possible side effects from treatment \_\_\_\_\_

**DISPOSAL INSTRUCTIONS FOR DIASTAT<sup>®</sup> AcuDial<sup>™</sup>**

**14a**

Plunger

- Pull on plunger until it is completely removed from the syringe body
- Point tip over sink or toilet

Tip

This step is for DIASTAT<sup>®</sup> AcuDial<sup>™</sup> users only

At the completion of step 14a:

- Discard all used materials in the garbage can
- Do not reuse
- Discard in a safe place, away from children

- Replace plunger into syringe body, gently pushing plunger until it stops
- Flush toilet or rinse sink with water until gel is no longer visible

SINK OR TOILET

**DISPOSAL FOR DIASTAT<sup>®</sup> 2.5 MG**

At the completion of step 13:

- Discard all used materials in the garbage can
- Do not reuse
- Discard in a safe place, away from children

Adult administration instructions available for download at [diastat.com](http://diastat.com)

C

Effective: January 1, 2012

West's Annotated California Codes [Currentness](#)Education Code ([Refs & Annos](#))Title 2. Elementary and Secondary Education ([Refs & Annos](#))Division 4. Instruction and Services ([Refs & Annos](#))Part 27. Pupils ([Refs & Annos](#))[§](#) [Chapter 9](#). Pupil and Personnel Health ([Refs & Annos](#))[§](#) [Article 1](#). General Powers--School Boards ([Refs & Annos](#))

**→ → § 49414.7. Absence of credentialed or other licensed nurse onsite; program to allow non-medical employees to volunteer to provide medical assistance to pupils with epilepsy suffering from seizures; training; eligibility of students for Section 504 plan or individualized education plan; civil liability; compensation; guidelines; notification of administration of medication**

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

(b) Notwithstanding [Sections 2052](#) and [2732 of the Business and Professions Code](#), in the absence of a credentialed school nurse or other licensed nurse onsite at the school or charter school, a school district, county office of education, or charter school may elect to participate in a program, pursuant to this section, to allow nonmedical employees to volunteer to provide medical assistance to pupils with epilepsy suffering from seizures, upon request by a parent or guardian pursuant to subdivision (c). If the school district, county office of education, or charter school elects to participate in a program pursuant to this section, the school district, county office of education, or charter school shall provide school employees who volunteer pursuant to this section with voluntary emergency medical training, that is consistent with the training guidelines established pursuant to subdivision (m), to provide emergency medical assistance to pupils with epilepsy suffering from seizures. A school employee with voluntary emergency medical training shall provide this emergency medical assistance using guidelines approved on the department's Internet Web site pursuant to subdivision (m), and the performance instructions set forth by the licensed health care provider of the pupil. A school employee who does not volunteer or who has not been trained pursuant to subdivision (m) shall not be required to provide emergency medical assistance pursuant to this section.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(j) If there are no volunteers, then the school or charter school shall renotify the pupil's parent or guardian of the option to be assessed for services and accommodations guaranteed under Section 504 of the federal Rehabilitation Act of 1973 and the federal Individuals with Disabilities Education Act ([20 U.S.C. Sec. 1400 et seq.](#)).

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

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

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

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

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

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

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

(A) The pupil's name.

(B) The name and purpose of the medication.

(C) The prescribed dosage.

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

(E) The method of administration.

- (F) The frequency with which the medication may be administered.
- (G) The circumstances under which the medication may be administered.
- (H) Any potential adverse responses by the pupil and recommended mitigation actions, including when to call emergency services.
- (I) A protocol for observing the pupil after a seizure, including, but not limited to, whether the pupil should rest in the school office, whether the pupil may return to class, and the length of time the pupil should be under direct observation.
- (J) Following a seizure, the pupil's parent and guardian and the school nurse shall be contacted by the school or charter school administrator or, if the administrator is not available, by another school staff member to continue the observation plan as established in subparagraph (I).
- (I) A school district, county office of education, or charter school that elects to allow volunteers to administer an emergency antiseizure medication shall compensate a volunteer, in accordance with that employee volunteer's pay scale pursuant to [Section 45128](#), when the administration of an emergency antiseizure medication and subsequent monitoring of a pupil requires a volunteer to work beyond his or her normally scheduled hours.
- (m)(1) The department, in consultation with the State Department of Public Health, shall develop guidelines for the training and supervision of school and charter school employees in providing emergency medical assistance to pupils with epilepsy suffering from seizures and shall post this information on the department's Internet Web site by July 1, 2012. The guidelines may be developed in cooperation with interested organizations. Upon development of the guidelines, the department shall approve the guidelines for distribution and shall make those guidelines available upon request.
- (2) The department shall include, on its Internet Web site, a clearinghouse for best practices in training nonmedical personnel to administer an emergency antiseizure medication to pupils.
- (3) Training established pursuant to this subdivision shall include, but not be limited to, all of the following:
- (A) Recognition and treatment of different types of seizures.
- (B) Administration of an emergency antiseizure medication.
- (C) Basic emergency followup procedures, including, but not limited to, a requirement for the school or charter school administrator or, if the administrator is not available, another school staff member to call the emergency 911 telephone number and to contact the pupil's parent or guardian. The requirement for the school or charter school administrator or other school staff member to call the emergency 911 telephone number shall not require a pupil to be transported to an emergency room.
- (D) Techniques and procedures to ensure pupil privacy.
- (4) Any written materials used in the training shall be retained by the school or charter school.
- (5) Training established pursuant to this subdivision shall be conducted by one or more of the following:
- (A) A physician and surgeon.

(B) A physician assistant.

(C) A credentialed school nurse.

(D) A registered nurse.

(E) A certificated public health nurse.

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

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

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

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

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

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

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

(2) "Emergency medical assistance" means the administration of an emergency antiseizure medication to a pupil suffering from an epileptic seizure.

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

CREDIT(S)

(Added by [Stats.2011, c. 560 \(S.B.161\), § 2.](#))

REPEAL

<For repeal of this section, see its terms.>

## HISTORICAL AND STATUTORY NOTES

2013 Electronic Pocket Part Update

2011 Legislation

Section 1 of Stats.2011, c. 560 (S.B.161), provides:

“SECTION 1. (a) The Legislature finds and declares all of the following:

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

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

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

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

## CODE OF REGULATIONS REFERENCES

Administration of emergency anti-seizure medication by trained volunteer nonmedical school personnel,

Application, see [5 Cal. Code of Regs. § 620](#).

Definitions, see [5 Cal. Code of Regs. § 621](#).

Training content, see [5 Cal. Code of Regs. § 623](#).

Training requirements, see [5 Cal. Code of Regs. § 624](#).

Training timing, see [5 Cal. Code of Regs. § 625](#).

Individuals authorized to train and supervise volunteer nonmedical school personnel to administer emergency medical assistance to pupils with epilepsy suffering from seizures, see [5 Cal. Code of Regs. § 622](#).

Supervision of trained volunteer nonmedical school personnel in administration of emergency medical assistance, including the administration of emergency anti-seizure medication, to pupils with epilepsy suffering from seizures, see [5 Cal. Code of Regs. § 627](#).

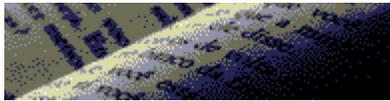
When emergency medical assistance by trained volunteer nonmedical school personnel should be provided, see [5 Cal. Code of Regs. § 626](#).

West's Ann. Cal. Educ. Code § 49414.7, CA EDUC § 49414.7

Current with all 2012 Reg.Sess. laws, Gov.Reorg.Plan No. 2 of 2011-2012, and all propositions on 2012 ballots.

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### 5 CA ADC § 621

Article 4.5. Administration of Emergency Anti-Seizure Medication by Trained Volunteer Nonmedical School Personnel

Barclays Official California Code of Regulations [Currentness](#)

Title 5. Education

Division 1. California Department of Education

Chapter 2. Pupils

Subchapter 3. Health and Safety of Pupils

➤ Article 4.5. Administration of Emergency Anti-Seizure Medication by Trained Volunteer Nonmedical School Personnel

#### § 620. Application.

This Article includes guidelines for training and supervision of volunteer nonmedical employees of those school districts, county offices of education and charter schools that elect to participate in a program of providing, in the absence of a credentialed school nurse or other licensed nurse, emergency medical assistance to pupils with epilepsy suffering from seizures, including administration of emergency antiseizure medication.

#### § 621. Definitions.

As used in this Article, the following definitions apply:

(a) An "emergency anti-seizure medication" means diazepam rectal gel and emergency medications approved by the federal Food and Drug Administration (FDA), prescribed for patients with epilepsy for the management of seizures by persons without the credentials listed in section 622 below.

(b) "Emergency medical assistance" means the administration of an emergency anti-seizure medication to a pupil suffering from an epileptic seizure.

(c) "Nonmedical school personnel" or "nonmedical school employees" means employees of a school district, county office of education or charter school who do not possess the licenses listed in section 622 below.

(d) "Supervision" means review, observation, and/or instruction of a designated nonmedical school employee's performance, but does not necessarily require the immediate presence of the supervisor at all times.

#### § 622. Individuals Authorized To Train and Supervise Volunteer Nonmedical School Personnel To Administer Emergency Medical Assistance to Pupils with Epilepsy Suffering from Seizures.

One or more of the following licensed health care professionals shall provide the training and supervision:

(a) A physician and surgeon;

(b) A physician assistant;

(c) A credentialed school nurse;

- (d) A registered nurse; or
- (e) A certificated public health nurse.

**§ 623. Training Content.**

The training provided by a licensed health care professional shall include, but not be limited to, all of the following:

- (a) Recognition and treatment of different types of seizures;
- (b) Administration of an emergency anti-seizure medication;
- (c) Basic emergency follow-up procedures, including, but not limited to, a requirement for the school or charter school administrator or, if the administrator is not available, another school staff member to call the emergency 911 telephone number and to contact the pupil's parent or guardian. The requirement for the school or charter school administrator or other school staff member to call the emergency 911 telephone number shall not require a pupil to be transported to an emergency room;
- (d) Techniques and procedures to ensure pupil privacy;
- (e) Record-keeping and record retention, including documenting, for each actual administration of an emergency anti-seizure medication, the pupil's name, the name of the medication administered, the dose given, the date and time of administration, the length of the seizure, and observation and action taken after the seizure;
- (f) Informing the volunteer that:
  - (1) his or her agreement to administer an emergency anti-seizure medication is voluntary;
  - (2) he or she must complete the required training;
  - (3) he or she will not administer an emergency anti-seizure medication until he or she has completed the required training and documentation of completion is recorded in his or her personnel file;
  - (4) he or she may rescind his or her offer to administer an emergency anti-seizure medication up to three days after completion of the training;
  - (5) after three days after completion of the training, he or she may rescind his or her offer to administer an emergency anti-seizure medication with a two-week notice, or until a new individual health plan or Section 504 plan has been developed for an affected pupil, whichever is less;
  - (6) he or she will be provided defense and indemnification by the school district, county office of education, or charter school for any and all civil liability, in accordance with, but not limited to, that provided in Division 3.6 (commencing with section 810) of Title 1 of the Government Code;
  - (7) he or she will be compensated in accordance with his or her pay scale pursuant to Education Code section 45128, when the administration of an emergency anti-seizure medication and subsequent monitoring of a pupil requires a volunteer to work beyond his or her normally scheduled hours;
  - (8) if he or she has not administered an emergency anti-seizure medication within the past two years and if there is a pupil enrolled in the school who may need the administration of an emergency anti-seizure medication, the volunteer must be re-trained in order to retain the ability to administer an emergency anti-seizure medication; and
  - (9) he or she must report every administration of anti-seizure medication to the school or charter school administrator and each report shall be documented.
  - (10) any agreement by an employee to administer an emergency antiseizure medication is voluntary, and an employee of the school or charter school or an employee of the school district or county office

of education, or the charter school administrator, shall not directly or indirectly use or attempt to use his or her authority or influence for the purpose of intimidating, threatening, coercing, or attempting to intimidate, threaten, or coerce any staff member who does not choose to volunteer, including, but not limited to, direct contact with the employee.

(11) the electronic notice described in Education Code section 49414.7(g)(4) shall be the only means by which a school or charter school solicits volunteers.

#### **§ 624. Training Requirements.**

The training by a licensed health care professional must be provided in accordance with:

- (a) The emergency anti-seizure medication manufacturer's instructions,
- (b) The pupil's health care provider's instructions as specified in section 626(a)(3); and
- (c) Guidelines established within this Article.

#### **§ 625. Training Timing.**

(a) If a school district, county office of education, or charter school elects to participate in a program described in this Article, training of a volunteer nonmedical school employee shall occur when:

- (1) a pupil with epilepsy has been prescribed an emergency anti-seizure medication by his or her health care provider, and
- (2) the parent or guardian of the pupil with epilepsy has requested that one or more volunteer nonmedical school employees be trained in the administration of an emergency anti-seizure medication in the event that the pupil suffers a seizure when the nurse is not available, and
- (3) a volunteer nonmedical school employee has volunteered to be trained.

(b) A volunteer nonmedical school employee who has previously completed training shall attend a re-training program if:

- (1) he or she has not administered an emergency anti-seizure medication within the prior two years;
- (2) a pupil with epilepsy has been prescribed an emergency anti-seizure medication by his or her health care provider; and
- (3) the parent or guardian of the pupil with epilepsy has requested that one or more volunteer nonmedical school employees be trained in the administration of an emergency anti-seizure medication in the event that the pupil suffers a seizure when the nurse is not available.

#### **§ 626. When Emergency Medical Assistance by Trained Volunteer Nonmedical School Personnel Should Be Provided.**

(a) If a school district, county office of education, or charter school elects to participate in the program described in this Article, emergency medical assistance shall be provided by a volunteer nonmedical school employee when:

- (1) A pupil with epilepsy has been prescribed an emergency anti-seizure medication by his or her health care provider;
- (2) The parent or guardian of the pupil with epilepsy has provided written authorization for a volunteer nonmedical school employee to administer an emergency anti-seizure medication; and
- (3) The school has on file a written statement from the pupil's authorized health care provider, provided by the parent, that shall include, but not be limited to, all of the following:

- (A) The pupil's name;
  - (B) The name and purpose of the prescribed emergency anti-seizure medication approved by the federal Food and Drug Administration (FDA) for administration by non-licensed personnel;
  - (C) The prescribed dosage;
  - (D) Detailed seizure symptoms, including frequency, type, or length of seizures that identify when the administration of an emergency anti-seizure medication becomes necessary;
  - (E) The method of administration;
  - (F) The frequency with which the medication may be administered;
  - (G) The circumstances under which the medication may be administered;
  - (H) Any potential adverse responses by the pupil and recommended mitigation actions, including when to call emergency services;
  - (I) A protocol for observing the pupil after a seizure, including, but not limited to, whether the pupil should rest in the school office, whether the pupil may return to class, and the length of time the pupil should be under direct observation; and
  - (J) A statement that following a seizure, the pupil's parent/guardian and the school nurse, if a credentialed nurse is assigned to the school district, county office of education, or charter school, shall be contacted by the school or charter school administrator or, if the administrator is not available, by another school staff member to continue the observation plan as established in section 626(a)(3)(I).
- (4) The parent has provided all materials necessary to administer an emergency anti-seizure medication;
  - (5) The volunteer nonmedical school employee has completed training in the administration of an emergency anti-seizure medication approved by the FDA for administration by non-licensed personnel and documentation of completion has been recorded in his or her personnel file;
  - (6) The pupil is suffering from an epileptic seizure; and
  - (7) A credentialed school nurse or licensed vocational nurse is not available.

**§ 627. Supervision of Trained Volunteer Nonmedical School Personnel in Administration of Emergency Medical Assistance, Including the Administration of Emergency Anti-Seizure Medication, to Pupils with Epilepsy Suffering from Seizures.**

- (a) If a school district, county office of education, or charter school elects to participate in the program described in this Article, the licensed health care professional supervising a volunteer nonmedical school employee shall ensure all of the following:
  - (1) The volunteer nonmedical school employee has completed the required training;
  - (2) The volunteer nonmedical school employee does not administer an emergency anti-seizure medication until he or she has completed the required training and documentation of completion is recorded in his or her personnel file;
  - (3) Volunteer nonmedical school employees have ready access to records including identification of eligible pupils, written authorization from the parent, the pupil's health care provider's written instructions, and parent notification to the school that the pupil has been administered an emergency anti-seizure medication within the past four hours on a regular school day;
  - (4) Volunteer nonmedical school employees report every administration of emergency anti-seizure medication to the school or charter school administrator;

(5) Volunteer nonmedical school employees document the actual administration of emergency anti-seizure medication, including the pupil's name, the name of the medication administered, the dose given, the date and time of administration, the length of the seizure, and observation and action taken after the seizure; and

(6) Volunteer nonmedical school employees review any changes in the pupil's health care provider's instructions with the supervising licensed health care professional.

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August 7, 2012

NORMA GARCIA  
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OPAD 12-48

To: District Superintendents  
Regional Occupational Program Superintendents  
Assistant Superintendents of Business  
Assistant Superintendents of Human Resources  
Assistant Superintendents of Instruction  
Directors of Child Welfare and Attendance  
SELPA Directors  
Special Education Directors

From: Ronald D. Wenkart  
General Counsel

Re: The Administration of Antiseizure Medication

As you may be aware, last year the Legislature passed and the Governor signed Senate Bill 161 (Huff)<sup>1</sup>. Senate Bill 161 added Education Code section 49414.7, effective January 1, 2012. Section 49414.7 authorizes unlicensed school employees to administer antiseizure medication to students who suffer seizures at school. Section 49414.7(m) authorizes a physician and surgeon, a physician assistant, a credentialed school nurse, a registered nurse, and a certificated public health nurse to train unlicensed school employees in the administration of antiseizure medication. A copy of our memo dated December 1, 2011 (OPAD 11-68), summarizing the provisions of Section 49414.7, is attached.

On May 18, 2012, the Legislative Counsel of California issued an opinion stating that, "...a registered nurse, school nurse or certificated public health nurse would not violate the Nursing Practice Act if he or she trains or supervises a school employee volunteer to administer emergency antiseizure medication pursuant to Section 49414.7 of the Education Code." The Legislative Counsel stated that Education Code section 49414.7 represents an exception to the Nursing Practice Act, and therefore, a registered nurse, school nurse, or certificated public health nurse may train or supervise school employees who volunteer to administer emergency antiseizure medication. A copy of the Legislative Counsel's opinion is attached.

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<sup>1</sup> Stats. 2011, ch. 560.

The Legislature created the Legislative Counsel Bureau in 1913.<sup>2</sup> The primary function of the Legislative Counsel Bureau is to provide legal advice to the legislative, executive, and judicial branches of state government.<sup>3</sup>

In summary, the Legislative Counsel has advised the Legislature that registered nurses, school nurses, and certificated public health nurses may train and supervise school employees who volunteer to administer emergency antiseizure medication pursuant to Education Code section 49414.7, and in doing so, they would not be in violation of the Nursing Practice Act. The Legislative Counsel's opinion is further support for the implementation of Section 49414.7, and the use of school employees to administer antiseizure medication as authorized.

If you have any further questions regarding this matter, please do not hesitate to contact our office.

RDW:vld

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<sup>2</sup> Government Code section 10200.

<sup>3</sup> Government Code sections 10231-10243, 10245.



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December 1, 2011

OPAD 11-68

To: District Superintendents  
Regional Occupational Program Superintendents  
Assistant Superintendents of Business  
Assistant Superintendents of Human Resources  
Assistant Superintendents of Instruction  
Directors of Child Welfare and Attendance  
SELPA Directors  
Special Education Directors

From: Ronald D. Wenkart  
General Counsel

Re: Questions and Answers – Antiseizure Medication

As you are aware, Senate Bill 161 (Huff)<sup>1</sup> adds Education Code section 49414.7, effective January 1, 2012. SB 161 authorizes unlicensed school employees to administer Diastat and other antiseizure medication to students who suffer seizures at school. In the last month, our office has received a number of questions regarding SB 161.

### **1. What was the purpose and intent behind the passage of Senate Bill 161?**

Education Code section 49414.7(a), states that it is the intent of the Legislature that whenever possible, an emergency antiseizure medication should be administered by a school nurse or licensed vocational nurse that has been trained in its administration. However, Section 49414.7(b) states that in the absence of a credentialed school nurse or other licensed nurse on site at the school or charter school, a school district, county office of education, or charter school may elect to participate in a program to allow non-medical employees to volunteer to provide medical assistance to students with epilepsy suffering from seizures upon request by a parent or guardian.

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<sup>1</sup> Stats. 2011, ch. 560.

The Legislature also emphasized the rights of students to a free appropriate public education SB 161. The purpose of allowing volunteer employees to administer emergency antiseizure medication is to ensure the right of children to attend school in a safe and healthy environment. The safety and welfare of some pupils with epilepsy may be compromised without immediate access to an emergency antiseizure medication. Even with a nurse employed at the school, trained volunteer employees may be needed, for example, for events that occur when the school nurse is off campus. In order to meet that goal and ensure the safety of pupil with epilepsy, it is essential that licensed health care professionals train and supervise employees to administer emergency antiseizure medication. “The American Academy of Pediatrics and Epilepsy Foundation of America support training of school employees... and believe that an emergency antiseizure medication may be safely and effectively administered by trained school employees.”<sup>2</sup>

**2. May a school district, county office of education, or charter school elect to participate in a program to allow nonmedical employees to volunteer to provide medical assistance to students with epilepsy?**

Yes. A school district, county office of education, or charter school may elect to participate in this program.

**3. What training must school districts provide to school employees who volunteer?**

The school district, county office of education, or charter school shall provide school employees who volunteer with emergency medical training that is consistent with the training guidelines established to provide emergency medical assistance to pupils with epilepsy suffering from seizures. A school employee with voluntary emergency medical training shall provide emergency medical assistance, in a manner consistent with the training guidelines in Section 49414.7(m)(3). A school employee who does not volunteer or who has not been trained shall not be required to provide emergency medical assistance.

**4. May parents request their child’s school to have one or more of its employees trained in the administration of an emergency antiseizure medication?**

Yes. Education Code section 49414.7(c) states that if a pupil with epilepsy has been prescribed an emergency antiseizure medication by his or her health care provider, the pupil’s parent or guardian may request the pupil’s school to have one or more of its employees receive training in the administration of an emergency antiseizure medication in the event that the pupil suffers a seizure when a nurse is not available.

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<sup>2</sup> Stats. 2011, ch 561, Senate Bill 161, Section 1.

**5. Must the school or charter school notify parents that their child may qualify for services or accommodations under Section 504 of the Rehabilitation Act or the Individuals with Disabilities Education Act (IDEA)?**

Yes. Education Code section 49414.7(d) states that the school or charter school shall notify the parent or guardian that his or her child may qualify for services or accommodations under Section 504 of the Rehabilitation Act or under the Individuals with Disabilities Education Act (IDEA). The school district or charter school shall assist the parent or guardian with the exploration of the option for a Section 504 Plan or IEP and encourage the parent or guardian to adopt that option if it is determined that the child is eligible for a Section 504 Plan or an IEP.

**6. May the school district or charter school ask the parent to sign a notice verifying that the parent was given information about Section 504 of the Rehabilitation Act or the IDEA?**

Yes. Education Code section 49414.7(e) states that a school or charter school may ask the parent or guardian to sign a notice verifying that the parent or guardian was given information about Section 504 of the Rehabilitation Act or the IDEA and that the parent or guardian understands that it is his or her right to request a Section 504 Plan or an IEP at any time. Education Code section 49414.7(f) states that a parent or guardian does not choose to have the pupil assessed for a Section 504 Plan or an IEP, the school or charter school may create an individualized health plan, seizure action plan, or other appropriate health plan designed to acknowledge and prepare for the child's health care needs in school. The plan may include the involvement of a trained volunteer school employee or a licensed vocational nurse.

**7. What are the requirements for training school employees under SB 161?**

Education Code section 49414.7(g) states that in training employees, the school district, county office of education or charter school shall ensure the following:

- A volunteer received training from a licensed health care professional regarding the administration of an emergency antiseizure medication. A staff member who has completed training shall, if he or she has not administered an emergency antiseizure medication within the prior two years and there is a pupil enrolled in the school who may need the administration of antiseizure medication, attend a new training program to retain the ability to administer an emergency antiseizure medication.
- Any agreement by an employee to administer an emergency antiseizure medication is voluntary, and an employee of the school or charter school, or are an employee of the school district or county office of education, or the charter school administrator, shall not directly or indirectly use or attempt to use his or her authority or influence for the purpose of intimidating, threatening, coercing, or attempting to intimidate, threaten or

coerce any staff member who does not choose to volunteer, including, but not limited to, direct contact with the employee.

- Any employee who volunteers may rescind his or her offer to administer an emergency antiseizure medication up to three days after the completion of the training. After that time, a volunteer may rescind his or her offer to administer an emergency antiseizure medication with a two-week notice, or until a new individual health plan or Section 504 plan has been developed for an affected employee, whichever is less.
- The school or charter school shall distribute an electronic notice no more than twice per school year per child to all staff that states the following information in bold print:
  - A. A description of the volunteer request, stating that the request is for volunteers to administer an emergency antiseizure medication to a pupil experiencing a severe epileptic seizure, in the absence of a school nurse, and that this emergency antiseizure medication is an FDA approved, predosed, rectally administered gel that reduces the severity of epileptic seizures.
  - B. A description of the training that the volunteer will receive.
  - C. A description of the voluntary nature of the volunteer program.
  - D. The volunteer rescission timelines.
- The electronic notice described shall be the only means by which a school or charter school solicits volunteers.

**8. May a school employee be required to volunteer to administer an emergency antiseizure medication prior to the completion of training?**

No. Education Code section 49414.7(h) states that an employee who volunteers shall not be required to administer an emergency antiseizure medication until completion of the training program adopted by the school district, county office of education, or charter school and documentation of completion is recorded in the employee's personnel file.

**9. Must a school district, county office of education, or charter school provide defense and indemnification for any and all civil liability for employees who volunteer to administer an antiseizure drug?**

Yes. Education Code section 49414.7(i) states that if a school district, county office of education, or charter school elects to participate, the school district, county office of education, or charter school shall ensure that each employee who volunteers will be provided defense and indemnification by the school district, county office of education, or charter school for any and

all civil liability, in accordance with, but not limited to, that provided under the Tort Claims Act.<sup>3</sup> This information shall be reduced to writing, provided to the volunteer, and retained in the volunteer's personnel file.

**10. What procedures are required by SB 161 if no employees volunteer?**

Education Code section 49414.7(j) states that if there are no volunteers, then the school or charter school shall renotify the pupil's parent or guardian of the option to be assessed for services and accommodations guaranteed under Section 504 and the IDEA.

**11. What are the requirements for a school district plan under SB 161?**

Education Code section 49414.7(k) states that a school district, county office of education, or charter school that elects to participate shall have in place a school district, county office of education, or charter school plan that shall include, but not be limited to, all of the following:

- Identification of existing licensed staff within the district or region who could be trained in the administration of an emergency antiseizure medication and could be available to respond to an emergency need to administer an emergency antiseizure medication. The school district or charter school shall consult with the county office of education to obtain this information.
- Identification of pupils who may require the administration of an emergency antiseizure medication.
- Written authorization from the parent or guardian for a nonmedical school employee to administer an emergency antiseizure medication.
- The requirement that the parent or guardian notify the school or charter school that the pupil has had an emergency antiseizure medication administered within the past four hours on a schoolday.
- Notification of the parent or guardian, by the school or charter school administrator or, if the administrator is not available, by another school staff member, that an emergency antiseizure medication has been administered.
- A written statement from the pupil's health care practitioner that shall include, but not be limited to, all of the following:

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<sup>3</sup> See, Government Code section 810 et seq.

- A. The pupil's name.
- B. The name and purpose of the medication.
- C. The prescribed dosage.
- D. Detailed seizure symptoms, including frequency, type, or length of seizures that identify when the administration of an emergency antiseizure medication becomes necessary.
- E. The method of administration.
- F. The frequency with which the medication may be administered
- G. The circumstances under which the medication may be administered.
- H. Any potential adverse responses by the pupil and recommended mitigation actions, including when to call emergency services.
- I. A protocol for observing the pupil after a seizure, including, but not limited to, whether the pupil should rest in the school office, whether the pupil may return to class, and the length of time the pupil should be under direct observation.
- J. Following a seizure, the pupil's parent or guardian and the school nurse shall be contacted by the school or charter school administrator or, if the administrator is not available, by another school staff member to continue the observation plan.

**12. Are employees who volunteer to administer emergency antiseizure medication entitled to compensation?**

Education Code section 49414.7(l) states that a school district, county office of education, or charter school that elects to allow volunteers to administer an emergency antiseizure medication shall compensate a volunteer, in accordance with that employee volunteer's pay scale when the administration of an emergency antiseizure medication and the subsequent monitoring of a pupil requires a volunteer to work beyond his or her normally scheduled hours.

**13. Is the California Department of Education, in consultation with the State Department of Public Health, required to develop guidelines for the training and supervision of employees in providing emergency medical assistance to pupils with epilepsy?**

Yes. Education Code section 49414.7(m) states the California Department of Education, in consultation with the State Department of Public Health, shall develop guidelines for the training and supervision of school and charter school employees in providing emergency medical assistance to pupils with epilepsy suffering from seizures and shall post this information on the California Department of Education's Internet Web site by July 1, 2012. The guidelines may be developed in cooperation with interested organizations. Upon development of the guidelines, the department shall approve the guidelines for distribution and shall make those guidelines available upon request. The California Department of Education shall include, on its Internet Web site, a clearinghouse for best practices in training non-medical personnel to administer an emergency antiseizure medication to pupils. Training established pursuant to this subdivision shall include, but not be limited to, all of the following:

- Recognition and treatment of different types of seizures.
- Administration of an emergency antiseizure medication.
- Basic emergency follow-up procedures, including, but not limited to, a requirement for the school or charter school administrator to call the emergency 911 telephone number and to contact the pupil's parent or guardian. The requirement for the school or charter school or other staff member to call the emergency 911 telephone number shall not require a pupil to be transported to an emergency room.
- Techniques and procedures to ensure pupil privacy.

**14. Are school districts required to retain training materials?**

Yes. Education Code section 49414.7(m) further states that any written materials used in the training shall be retained by the school or charter school.

**15. Who may conduct the training of school employees to administer emergency antiseizure medication?**

Training established pursuant to Education Code section 49414.7(m) shall be conducted by one or more of the following:

- A physician and surgeon.
- A physician assistant.

- A credentialed school nurse.
- A registered nurse.
- A certificated public health nurse.

Training provided in accordance with the manufacturer's instructions, the pupil's health care provider's instructions, and guidelines established pursuant to Section 49414.7 shall be deemed adequate training.

**16. What procedures should be followed if a school employee administers an emergency antiseizure medication?**

Education Code section 49414.7(n) states that the school or charter school administrator or, another school staff member shall notify the credentialed school nurse assigned to the school district, county office of education, or charter school if an employee at the school site administers an emergency antiseizure medication pursuant to Section 49414.7. If a credentialed school nurse is not assigned to the school district, county office of education, or charter school, the school or charter school administrator or, if the administrator is not available, another school staff member shall notify the superintendent of the school, or his or her designee, the county superintendent of schools, or his or her designee, or the charter school administrator, or his or her designee as appropriate, if an employee at the school site administers an emergency antiseizure medication. A school or charter school shall retain all records relating to the administration of an emergency antiseizure medication while a pupil is under the supervision of school staff. The pupil's parent or guardian shall provide all materials necessary to administer an emergency antiseizure medication. A school or charter school shall not be responsible for providing any of the necessary materials.

**17. How is the term "emergency antiseizure medication" defined in SB 161?**

Education Code section 49414.7(p) defines an "emergency antiseizure medication" as diazepam rectal gel and emergency medications approved by the federal Food and Drug Administration for patients with epilepsy for the management of seizures by persons without medical credentials. "Emergency medical assistance" means the administration of an emergency antiseizure medication to a pupil suffering from an epileptic seizure. Education Code section 49414.7(q) states that Section 49414.7 shall remain in effect until January 1, 2017, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2017, deletes or extends that date.

**18. May school districts begin training school employees to administer emergency antiseizure medication beginning January 1, 2012?**

SB 161 takes effect January 1, 2012. SB 161 authorizes unlicensed school employees to administer Diastat and other antiseizure medication to students who suffer seizures at school. Education Code section 49414.7(m) states that the training may be conducted by a physician, a physician assistant, a credentialed school nurse, a registered nurse, or a certified public health nurse. Section 49414.7(m) requires the California Department of Education to develop guidelines for the training and supervision of school district employees in providing emergency medical assistance to students with epilepsy and to post this information on their website by July 1, 2012.

During the period January 1, 2012 through July 1, 2012, if the California Department of Education has not posted information or guidelines for the training and supervision of school employees in providing emergency medical assistance to pupils with epilepsy suffering from seizures, school districts may wish to train employees using guidelines developed by the Epilepsy Alliance of Orange County or other organizations which are consistent with the requirement of Education Code section 49414.7 (m)(3),<sup>4</sup> which include, but are not limited to, the following:

- Recognition and treatment of different types of seizures.
- Administration of an emergency antiseizure medication.
- Basic emergency follow-up procedures, including, but not limited to, a requirement for the school or charter school administrator to call the emergency 911 telephone number and to contact the pupil's parent or guardian. The requirement for the school or charter school or other staff member to call the emergency 911 telephone number shall not require a pupil to be transported to an emergency room.
- Techniques and procedures to ensure pupil privacy.

While it may be argued by some groups that school districts may not implement training of school employees until CDE posts its training guidelines, we interpret Education Code section 49414.7 as allowing the implementation of training of school employees so long as the training is consistent with Education Code section 49414.7. During the interim period from January 1, 2012 to July 1, 2012, the risk in training employees to administer emergency antiseizure medication using guidelines developed by the Epilepsy Alliance of Orange County or other groups is less than the risk of not training employees if a child suffers a seizure, the medication is not administered in a timely manner, and the child suffers serious injury or death as a result.

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<sup>4</sup>Districts that have previously trained volunteer employees to administer Diastat or other emergency antiseizure medications may continue their present practices if the training that was provided complied with Section 49414.7(b) and 49414.7(m)(3).

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Since SB 161 is somewhat unclear on this point, school districts may wish to utilize outside organizations such as the Epilepsy Alliance of Orange County to provide training from January 1 to July 1, 2012.

Our office will be available to discuss the risks involved and will be glad to consult with each individual school district.

RDW:vld



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A TRADITION OF TRUSTED LEGAL SERVICE  
TO THE CALIFORNIA LEGISLATURE

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May 18, 2012

Honorable Bob Huff  
Room 305, State Capitol

**REGISTERED NURSES: TRAINING AND SUPERVISING SCHOOL EMPLOYEE  
VOLUNTEERS TO ADMINISTER EMERGENCY ANTISEIZURE  
MEDICATION - #1209012**

Dear Senator Huff:

You have asked whether a registered nurse, school nurse, or certificated public health nurse would violate the Nursing Practice Act if he or she trains or supervises a school employee volunteer to administer emergency antiseizure medication pursuant to Section 49414.7 of the Education Code.

The Nursing Practice Act (Ch. 6 (commencing with Sec. 2700), Div. 2, B.& P.C.; hereafter the act) provides for the licensure and regulation of registered nurses by the Board of Registered Nursing within the Department of Consumer Affairs (Secs. 101, 2701, and 2732, B.& P.C.; hereafter the board). Under the act, no person may engage in the practice of nursing without holding a license that is in active status (Sec. 2732, B.& P.C.).

The practice of nursing means, among other things, those functions, including basic health care, that help people cope with difficulties in daily living that are associated with their actual or potential health or illness problems or the treatment thereof, and that require a substantial amount of scientific knowledge or technical skill, including, among other things, direct and indirect patient care services, including, but not limited to, the administration of medications and therapeutic agents, necessary to implement a treatment ordered by and within the scope of licensure of, among others, a physician and surgeon (subd. (b), Sec. 2725, B.& P.C.).

A school nurse is a registered nurse licensed by the board who has completed specified additional educational requirements for, and possesses a current credential in, school nursing (Secs. 44877 and 49426, Ed. C.). School nurses strengthen and facilitate the educational process by improving and protecting the health status of children and by identification and assistance in the removal or modification of health-related barriers to learning in individual children (Sec. 49426, Ed. C.). The major focus of school health services is the prevention of illness and disability, and the early detection and correction of health

problems (Ibid.). The school nurse is especially prepared and uniquely qualified in preventive health, health assessment, and referral procedures (Ibid.).

A public health nurse is also a registered nurse who has satisfied specified education and clinical experience requirements and has been issued a certificate by the board to hold himself or herself out as a public health nurse (subd. (c), Sec. 2818, B.& P.C.; 16 Cal. Code Regs. 1490 and 1491). A public health nurse provides services that include, but are not limited to, control and prevention of communicable disease; promotion of maternal, child, and adolescent health; prevention of abuse and neglect of children, elders, and spouses; and outreach screening, case management, resource coordination and assessment, and delivery and evaluation of care for individuals, families, and communities (subd. (a), Sec. 2818, B.& P.C.).

Thus, both school nurses and public health nurses are registered nurses with additional qualifications in order to hold their respective titles and are subject to the act.

With respect to whether a registered nurse, school nurse, or certificated public health nurse would violate the act if he or she trains or supervises a school employee volunteer (hereafter volunteer) to administer emergency antiseizure medication, we turn to Section 49414.7 of the Education Code (hereafter Section 49414.7) and the regulations adopted pursuant to that section.

Section 49414.7 provides, in pertinent part, as follows:

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

“(b) Notwithstanding Sections 2052 and 2732 of the Business and Professions Code, in the absence of a credentialed school nurse or other licensed nurse onsite at the school or charter school, a school district, county office of education, or charter school may elect to participate in a program, pursuant to this section, to allow nonmedical employees to volunteer to provide medical assistance to pupils with epilepsy suffering from seizures, upon request by a parent or guardian pursuant to subdivision (c). If the school district, county office of education, or charter school elects to participate in a program pursuant to this section, the school district, county office of education, or charter school shall provide school employees who volunteer pursuant to this section with voluntary emergency medical training, that is consistent with the training guidelines established pursuant to subdivision (m), to provide emergency medical assistance to pupils with epilepsy suffering from seizures. A school employee with voluntary emergency medical training shall provide this emergency medical assistance using guidelines approved on the department’s Internet Web site pursuant to subdivision (m), and the performance instructions set forth by the licensed health care provider of the pupil. A school employee who does not volunteer or who has not been trained

pursuant to subdivision (m) shall not be required to provide emergency medical assistance pursuant to this section.

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

\* \* \*

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

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

\* \* \*

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

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

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

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

“(B) Administration of an emergency antiseizure medication.

“(C) Basic emergency followup procedures, including, but not limited to, a requirement for the school or charter school administrator or, if the administrator is not available, another school staff member to call the emergency 911 telephone number and to contact the pupil's parent or guardian. The requirement for the school or charter school administrator or

other school staff member to call the emergency 911 telephone number shall not require a pupil to be transported to an emergency room.

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

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

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

“(A) A physician and surgeon.

“(B) A physician assistant.

“(C) A credentialed school nurse.

“(D) A registered nurse.

“(E) A certificated public health nurse.

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

\* \* \*

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

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

“(2) ‘Emergency medical assistance’ means the administration of an emergency antiseizure medication to a pupil suffering from an epileptic seizure.

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

Thus, the Legislature, until January 1, 2017, has authorized school districts, county offices of education, and charter schools to participate in a program that authorizes employees to volunteer to provide emergency medical assistance to pupils with epilepsy suffering from seizures, upon request by a parent or guardian (subds. (b) and (q), Sec. 49414.7, Ed. C.). The State Department of Education, in consultation with the State Department of Public Health, is required to develop guidelines for the training and supervision of school and charter school employees in providing this emergency medical assistance to pupils by July 1, 2012 (Sec. 89, Ed. C.; subd. (m), Sec. 49414.7, Ed. C.). School districts, county offices of education, or charter schools that participate in the program are required to provide emergency medical training to the school employees who volunteer that is consistent with the training guidelines established by the department (subds. (b) and (m), Sec. 49414.7, Ed. C.). A school employee with voluntary emergency medical training is

required to provide this emergency medical assistance using the guidelines approved by the department (subd. (b), Sec. 49414.7, Ed. C.).

With respect to the training and supervision guidelines, the State Board of Education<sup>1</sup> adopted the guidelines required by Section 49414.7 as emergency regulations pursuant to the rulemaking procedures under the Administrative Procedure Act (Ch. 3.5 (commencing with Sec. 11340), Pt. 1, Div. 3, Title 2, Gov. C.) and these emergency regulations were approved by the Office of Administrative Law on March 26, 2012 (see the Notice of Approval of Emergency Regulatory Action, available online at [http://www.oal.ca.gov/res/docs/recent\\_actions\\_emergencies/2012-0316-03E.pdf](http://www.oal.ca.gov/res/docs/recent_actions_emergencies/2012-0316-03E.pdf) (as of April 6, 2012); see also 5 Cal. Code Regs. 620).<sup>2</sup>

Section 49414.7 requires training to be conducted by one or more of the following licensed health care professionals: (1) a physician and surgeon, (2) a physician assistant, (3) a credentialed school nurse, (4) a registered nurse, or (5) a certificated public health nurse (subd. (m), Sec. 49414.7, Ed. C.; see also 5 Cal. Code Regs. 622). The training provided by a licensed health care professional is required to include, among other things, recognition and treatment of different types of seizures, administration of an emergency antiseizure medication, basic emergency followup procedures, techniques and procedures to ensure pupil privacy, and informing the volunteer of certain information (5 Cal. Code Regs. 623).

Unlike the training provisions, Section 49414.7 is ambiguous with regard to specifying who will be responsible for the supervision of school and charter school employees in providing emergency medical assistance to pupils with epilepsy suffering from seizures (subd. (m), Sec. 49414.7, Ed. C.). However, courts defer to the agency's interpretation when it fills gaps or resolves ambiguities in the statute the agency administers (*Adams House Health Care v. Bowen* (9th Cir. (Cal.) 1988) 862 F.2d 1371, 1374). Here, the guidelines adopted by the State Board of Education provide that both the training and supervision are required to be conducted by one or more of the following licensed health care professionals: (1) a physician and surgeon, (2) a physician assistant, (3) a credentialed school nurse, (4) a registered nurse, or (5) a certificated public health nurse (5 Cal. Code Regs. 622).

In this context, "supervision" means review, observation, or instruction of a designated school employee's performance, but does not necessarily require the immediate

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<sup>1</sup> The State Board of Education is the policymaking body of the State Department of Education (Sec. 33301, Ed. C.).

<sup>2</sup> Subdivision (e) of Section 11346.1 of the Government Code prohibits a regulation initially adopted as an emergency regulatory action from remaining in effect more than 180 days unless the adopting agency has complied with Sections 11346.2 to 11347.3, inclusive, of the Government Code within a specified period. It appears the State Board of Education commenced efforts to comply with these requirements by issuing a Notice of Proposed Rulemaking and Comment Period on March 23, 2012 (see <http://www.cde.ca.gov/re/lr/rr/adminofepilepsymed.asp> (as of May 8, 2012)).

presence of the supervisor at all times (5 Cal. Code Regs. 621). If a school district, county office of education, or charter school elects to participate in the program authorizing volunteers to provide emergency medical assistance to pupils with epilepsy suffering from seizures, the licensed health care professional supervising a volunteer is required to ensure that the volunteer has completed the required training, the volunteer does not administer an emergency antiseizure medication until he or she has completed the required training and the completion of such training is documented, the volunteer has access to specified pupil records related to the administration of emergency antiseizure medication, and the volunteer documents and retains records relating to the actual administration of emergency antiseizure medication (5 Cal. Code Regs. 627).

Thus, the question to be addressed is whether a registered nurse, school nurse, or certified public health nurse would violate the act if he or she trains or supervises a volunteer to administer emergency antiseizure medication pursuant to Section 49414.7.

The primary task of statutory construction is to ascertain the intent of the Legislature so as to effectuate the purpose of the law (*Alexander v. Superior Court* (1993) 5 Cal.4th 1218, 1226). The guiding star of statutory construction is the intention of the Legislature and the statute is to be read in the light of its historical background and evident objective (*State Compensation Ins. Fund v. Workers' Comp. Appeals Bd.* (1979) 88 Cal.App.3d 43, 52). In determining the legislative intent, the court first examines the words of the statute. If there is no ambiguity in the language of the statute, then the Legislature is presumed to have meant what it said, and the plain meaning of the language governs (*People v. Coronado* (1995) 12 Cal.4th 145, 151).

As an initial matter, a registered nurse, school nurse, or certificated public health nurse who trains or supervises a volunteer to administer emergency antiseizure medication would be acting pursuant to Section 49414.7, not the act. Section 49414.7, and the regulations adopted pursuant to that section, expressly authorize these registered nurses, among other licensed health care professionals, to provide such training and supervision to a volunteer.

As described above, the act provides for the licensure and regulation of registered nurses by the board and describes the practice of nursing. It does not expressly confer authority for a nurse to train or supervise a volunteer to administer emergency antiseizure medication. Nevertheless, we think that Section 49414.7 represents the Legislature's intent to expand the scope of practice of a registered nurse, which already includes the administration of medicine (subd. (b), Sec. 2725, B.& P.C.), to also include the training and supervision of a volunteer to administer emergency antiseizure medication.

Furthermore, a statute should be construed so as to harmonize, if possible, with other laws relating to the same subject (*Isobe v. Unemployment Ins. Appeals Bd.* (1974) 12 Cal.3d 584, 590-591). When two statutes touch upon a common subject, they are to be construed in reference to each other, so as to "harmonize the two in such a way that no part of either becomes surplusage" (*Ross v. California Coastal Com.* (2011) 199 Cal.App.4th 900, 928). To the extent a specific statute is inconsistent with a general statute potentially covering the same subject matter, the specific statute must be read as an exception to the more general statute

(*Salazar v. Eastin* (1995) 9 Cal.4th 836, 857). A specific provision relating to a particular subject will govern a general provision even though the general provision standing alone would be broad enough to include the subject to which the specific provision relates (*Carlton Santee Corp. v. Padre Dam Mun. Water Dist.* (1981) 120 Cal.App.3d 14, 29).

Applying these rules of statutory construction, we think the provisions of Section 49414.7 may be harmonized with the act and that the specific training and supervision requirements of the section, discussed above, represent an exception to the act.

In addition, the act provides that no state agency other than the board may define or interpret the practice of nursing for those licensed pursuant to the act, or develop standardized procedures or protocols pursuant to the act, “unless so authorized by [the act], or specifically required under state or federal statute” (subd. (e), Sec. 2725, B.& P.C.; emphasis added). Therefore, the act itself contemplates a statute beyond the ambit of the act and the board’s jurisdiction to define the practice of nursing, such as in the case of Section 49414.7 which establishes an exception to the act to authorize the training and supervision of a volunteer to administer emergency antiseizure medication.

Examples of other similar exceptions to the act are Sections 49414 and 49414.5 of the Education Code. Section 49414 of the Education Code authorizes a school district or county office of education to provide emergency epinephrine autoinjectors to trained personnel, and trained personnel may utilize those epinephrine autoinjectors to provide emergency medical aid to persons suffering from an anaphylactic reaction (subd. (a), Sec. 49414, Ed. C.). Section 49414.5 of the Education Code provides that, in the absence of a credentialed school nurse or other licensed nurse onsite at the school, each school district is authorized to provide school personnel with voluntary emergency medical training to provide emergency medical assistance to pupils with diabetes suffering from severe hypoglycemia subject to specified standards (subd. (a), Sec. 49414.5, Ed. C.). Training by a physician and surgeon, credentialed school nurse, registered nurse, or certificated public health nurse according to specified standards is deemed adequate training for purposes of Section 49414.5 of the Education Code (subd. (b), Sec. 49414.5, Ed. C.).

Finally, even though we think that Section 49414.7 represents an exception to the act, one might argue that a registered nurse, school nurse, or certificated public health nurse, by providing training and supervision to a volunteer to administer emergency antiseizure medication, may be subject to disciplinary action by the board if he or she assists or abets a volunteer in the practice of nursing without a license as required by Section 2732 of the Business and Professions Code (subd. (d), Sec. 2761, B.& P.C.). However, we do not think this argument would be valid because Section 49414.7 expressly excepts such volunteers from

the licensure requirements in Section 2732 of the Business and Professions Code (subd. (b), Sec. 49414.7, Ed. C.).

Therefore, it is our opinion that a registered nurse, school nurse, or certificated public health nurse would not violate the Nursing Practice Act if he or she trains or supervises a school employee volunteer to administer emergency antiseizure medication pursuant to Section 49414.7 of the Education Code.

Very truly yours,

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MLS:jrp