

## TALKING POINTS

### ***Problem***

California public school students with epilepsy, who may be susceptible to prolonged seizures known as status epilepticus, are being denied access to life-saving emergency medications such as Diastat (a pre-dosed, prescribed medication of rectally administered diazepam). These seizures can have devastating consequences for children including brain injury and death. Diastat is FDA approved and designed to be given by people without medical training, such as parents, teachers and other caregivers.

### ***Existing law***

- Federal laws mandate that Diastat be administered under IDEA/ Section 504 as a “related service” or accommodation for children with eligible disabilities.
- California Education Code provides authorization for unlicensed personnel to assist with the administration of emergency medicine on school sites (EC 49422, 49423)

### ***Controversy***

- Interpretive conflicts between California Education Code and the Nurse Practice Act (NPA) have resulted in legal disputes over the administration of medications in schools by unlicensed personnel.
- Additionally, state policy addressing emergency medical care in schools is vague, resulting in confusion about the types of medical interventions school nurses or unlicensed personnel can or should provide students in emergency situations.
- Many school districts have opted to use 911 services to cover gaps in personnel. Utilizing 911 is not appropriate response in this circumstance because there is no guarantee that EMS personnel will arrive within the necessary time frame to treat the student (estimated less than 10 minutes); lack of uniform medical protocols related to the seizure interventions by the state’s medical transport; lack of any requirement to carry the medication on the transport.

### ***Considerations***

- Widespread support amongst school districts and school administrators to introduce legislation to ensure that children with epilepsy have access to Diastat in schools; tacit support from CA Department of Education.
- Widespread misperceptions and misinformation regarding Diastat safety
- Strong union opposition (teachers, nurses, labor) has solidified following California Assembly hearings regarding administration of insulin in schools.
- Prior to initiation of Assembly hearings, nurses organizations indicated willingness to support (or not oppose) Diastat legislation similar to glucagon legislation passed in 2003 (AB942 / Ed Code Section 49414.5). The glucagon bill (re: emergency medication for hypoglycemia) was passed with no union opposition.

### ***Legislative Remedy***

EPILEPSY CALIFORNIA, in partnership with the Association of State Boards of Education, Orange County Department of Education, state school administrators, parents, medical providers, supports changes to existing education regulations to authorize licensed school nurses to train and supervise employees of school districts to administer Diastat to children with epilepsy in the public schools.

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CALIFORNIA NURSES ASSOCIATION

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what type of episode the child is exhibiting. Diastat must be administered when a child is seizing. The rectal syringe is made of hard plastic so there is a possibility of piercing the rectal cavity during administration. There are both adult and child dosages for diastat. If the appropriate dosage is not given (for instance if the dosage is not properly locked in or the adult syringe is administered instead of the child syringe) death due to respiratory failure can occur. Additionally, because a seizure is unpredictable, providing for any level of privacy for the child is nearly impossible.

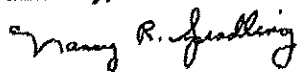
School Nurses and LVNs are trained to control the area, and provide appropriate care at a moment's notice.

- 3) School employees face legal liability if something goes wrong. School districts generally do not cover employees for punitive damages. When unlicensed school employees are multi-tasking and having to assume the duties of licensed medical professionals, there is always a risk that something will go terribly wrong.
- 4) The Legislature has already cut \$18 billion from education in the last two budget cycles and thousands of school staff have been laid off. Employees are being asked to do more, with less. In some cases, unlicensed staff are being asked to perform these injections illegally and on top of their other duties.

The law requires that insulin be administered by competent health professionals, such as RNs, LVNs, and others for whom administering insulin to children in schools is within their existing scope of practice. We believe you have the responsibility to ensure the safety of our children and not to seek to weaken safety measures or advocate for a lesser standard of care than what is both needed and deserved. We cannot risk further erosion of our public education system and educational experience of our children. Our children are already bearing the brunt of far too many cutbacks. We urge legislators to avoid placing children in harm's way under pressure of political expediency. Schools must be properly staffed so that each child will receive a quality education and adequate health care.

Therefore it is imperative that schools, at the very minimum, maintain existing legal standards. We strongly support having licensed, appropriately trained health care personnel provide the high quality care that is required to assure that not only children with disabilities but all school children have access to a free, fair and appropriate education. We believe that weakening existing standards will have the unintended consequences of putting even more students at risk, especially minorities, the poor and the disenfranchised. We have a duty to equitably provide the highest standard of care to all, not just districts with vocal and educated parents.

Sincerely,



Nancy Spradling, CSNO

## RESPONSE TO OPPOSE LETTER BY COALITION OF EMPLOYEE ORGANIZATIONS

DATED MARCH 3, 2010

A coalition of employee organizations has sent a letter opposing SB 1051 stating that Diastat is a dangerous medication that must be administered by licensed school nurses. The coalition letter contains a number of factual inaccuracies. This addendum to the attached support letter is to dispel the myths promulgated in their letter. We will take on the allegations in the letter dated March 3, 2010 one-by-one.

1. The following is a breakdown of paragraph 2 in the employee organizations' letter.

- **"Diastat (diazepam rectal gel) is a dangerous medication":** In the publication *Pediatric Neurology*, Alldredge, Wall, & Ferriero, wrote that clinical studies have shown this drug (diazepam rectal gel) to be safe and effective for stopping seizures. The Journal of School Nursing wrote, "Diazepam rectal gel provides prompt, safe, and effective treatment for seizure emergencies in a school setting."
- **"The rectal syringe is made of hard plastic":** The tip that is inserted into the rectum is a soft, pliable rubber specifically designed for that purpose.
- **They bring up the specter of an adult dosage being given to a student:** First of all, it is unlikely that a school would have an adult syringe next to a student syringe. Diastat is prescribed by the child's health care provider and is dosed specifically for that child, the syringe is filled by a pharmacist, and delivered to the school by the parent. There is much less chance of harm to the child having Diastat administered by a trained non-medical staff member than the harm from an extended, uncontrolled seizure.
- **The letter says that "...because a seizure is unpredictable, providing any level of privacy for the child is nearly impossible".** We agree that the timing is unpredictable, and that is exactly why this bill is needed. If a child has a seizure when a nurse is unavailable, prompt administration of medication is needed. As far as privacy is concerned, it is no different for a trained non-medical staff member than a nurse. The training of the staff will include the best way to preserve the privacy of the student.
- **Legal liability:** We are going to amend the bill protecting the employee from criminal and civil liability.
- **Schools must be properly staffed to receive quality education and adequate health care:** Jobs, jobs, jobs. Preservation of jobs is the primary reason for opposition to SB 1051. This is best shown by the following quote:

*"Our concern is that a bill like this will set a national trend in which nonmedical school personnel are trained to administer medication to students, overshadowing the trend to get schools to hire more nurses,"* said Mimi Stamer, president of the Massachusetts School Nurse Organization.