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By the EdLaw Group at Lindabury

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New Law in Effect for Care of Students with Diabetes

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Early last October, Governor John Corzine signed into law *N.J.S.A.* 18A:40-12.11 through 21 (“the Law”). This law addresses the care of students with diabetes in the school setting, and requires district boards of education to take specific actions to ensure that students with diabetes are able to manage their disease and balance disease related issues while at school or at a school-related activity. The Law took effect January 29, 2010.

Requirements of the Law

The Law provides the parent or guardian of a diabetic student with the ability to seek diabetic care for that student while he is at school. First, in order to obtain such care the parent or guardian must inform the school nurse of such a request. Second, the school nurse shall develop both an Individualized Health Care Plan (IHP) and an Individualized Emergency Health Care Plan (IEHP) for that student.

In order to execute the plans, the parent or guardian must annually provide written authorization to the board of education for the provision of diabetes care as it is outlined in the student’s IHP and IEHP. Such authorization must include the emergency administration of glucagon and, if requested, may include authorization for the student’s self-management and care of his diabetes. If a request is made for the student’s self-management and care of his diabetes, the parent or guardian must provide the board of education with written authorization from the student’s physician or advanced practice nurse that the student is capable of, and has been instructed in, the management and care of his diabetes. Finally, the IHP and IEHP must be updated by the school nurse prior to the beginning of each school year and as necessary if there is a change in the health status of the student.

Individualized Plan Requirements

The Law provides that an IHP must include and an IEHP may include the following:

1. hypoglycemia/hyperglycemia symptoms that the student may experience and the recommended treatment;
2. how often blood glucose should be tested;
3. written orders from the student’s physician or advanced practice nurse outlining the dosage and indications for insulin administration and the administration of glucagon, if needed;
4. times of meals and snacks and indications for additional snacks for exercise;
5. the degree to which the student can participate in exercise and sports, and any contraindications to exercise, or accommodations that must be (cont’d ➔)

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- made for that particular student;
6. accommodations for school trips, after-school activities, class parties, and other school-related activities;
 7. education of all school personnel who may come in contact with the student about diabetes, how to recognize and treat hypoglycemia, how to recognize hyperglycemia, and when to call for assistance;
 8. medical and treatment issues that may affect the educational process of the student with diabetes; and
 9. how to maintain communications with the student, the student's parent or guardian and health care team, the school nurse, and the educational staff.

Designees

The Law provides that the school nurse shall designate, in consultation with the board of education, school district employees who volunteer to administer glucagon to a student with diabetes who is experiencing severe hypoglycemia. Designated employees are authorized to administer glucagon following training by the school nurse or other qualified health care professional only "when a school nurse is not physically present at the scene."

Role and Responsibilities of the School Nurse

The school nurse is responsible for developing the IHP and the IEHP for impacted students as outlined above, and updating same at the beginning of each school year. The school nurse is also responsible for updating these plans as necessary in the event there is a change in the health status of the student. The school nurse has the primary responsibility for the emergency administration of glucagon to a student with diabetes who is experiencing severe hypoglycemia. The nurse is responsible for designating, in consultation with the board of education, additional school district employees who volunteer to administer glucagon to a student with diabetes who is experiencing severe hypoglycemia.

The nurse is also required to obtain a release from the parent or guardian of a diabetic student to authorize the sharing of medical information between the student's doctors and the school district. The release should also authorize the nurse to share the student's medical information with other district staff members, as necessary.

Student Self-Management and Care of Disease

The Law provides that upon the written request of the parent or guardian as provided in the student's individualized health care plan, school districts must allow the student to attend to the management and care of his diabetes as needed "in the classroom, in any area of the school or school grounds, or at any school-related activity if the student has been evaluated and determined to be capable of doing so as reflected in the student's individualized health care plan."

School Postings

The Law provides that designated areas of the school building must have posted, in plain view, "a reference sheet identifying signs and symptoms of hypoglycemia" in diabetic students.

Immunity from Liability

The Law provides that "no school employee, including a school nurse, a school bus driver, a school bus aide, or any other officer or agent of a board of education, shall be held liable for any good faith act or omission consistent with the provisions of this act, nor shall an action before the New Jersey State Board of Nursing lie against a school nurse for any such action taken by a person trained in good faith by the school nurse pursuant to this act."

The New Jersey Department of Education ("DOE") and the Department of Health and Senior Services plan to convene a work group in order to update the 2000 Guidelines, the diabetes guidelines that were in effect from January 2000 through the new law's effective date. In the meantime, the DOE advises school districts to implement the requirements of the law. It also suggests they review two national resources for guidance: *Helping the Student with Diabetes Succeed: A Guide for School Personnel*, published by the National Diabetes Education Program and USDHHS/NIH/CDC in June 2003, and *Diabetes Care Tasks as School: What Key Personnel Need to Know*, a CD Rom and DVD package developed by the American Diabetes Association in 2008.



The information provided here is necessarily general and is not intended as legal advice or a substitute for legal advice. If you have any questions regarding this Alert, please contact Anthony P. Sciarrillo of the EdLaw Group at edlawgroup@lindabury.com.

Before making your choice of attorney, you should give this matter careful thought. The selection of an attorney is an important decision.

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