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Priority Briefing

NEW CARE OF STUDENTS WITH DIABETES ACT

Following an amendatory veto by Governor Quinn on July 30, 2010 and an override by the Illinois General Assembly on December 1, 2010, **Public Act 96-1485** (formerly House Bill 6065), known as the **Care Of Students With Diabetes Act**, takes effect today. The new Act adds Section 5/10-22.21b to the Illinois School Code and provides (in part) as follows:

- A “**diabetes care plan**” (“**DCP**”) (defined as “a document that specifies the diabetes-related services needed by a student at school and at school-sponsored activities and identifies the appropriate staff to provide and supervise these services”) must be submitted to the school at the beginning of the school year, upon a student’s enrollment, as soon as practicable after a student’s diagnosis, or when a student’s care needs change during the school year.
- The **DCP must serve as the basis of a student’s Section 504 plan** and must be signed by a student’s parent/guardian and submitted to the school for any student with diabetes who seeks assistance with diabetes care in the school setting. If a student has been managing his/her diabetes care at school before the effective date of the Act, the student’s parent/guardian may sign and submit a DCP for the student.
- A student’s parent/guardian is responsible for sharing the instructions of the student’s health care provider relative to the student’s diabetes management during the school day. **The health care provider’s instructions, as well as a copy of the signed prescription and the methods of insulin administration, must be included in the DCP.**

- The DCP must also include a uniform record of glucometer readings and insulin administered by the school nurse or **delegated care aide** (defined as “a school employee who has agreed to receive training in diabetes care and to assist students in implementing their diabetes care plan and has entered into an agreement with a parent or guardian and the school district or private school”) during the school day using a standardized format provided by the ISBE, as well as procedures regarding when a delegated care aide must consult with the parent/guardian, school nurse (where available), or health care provider to confirm that an insulin dosage is appropriate.
- In accordance with a DCP or when an unexpected snack or meal requires a dose of insulin not anticipated in a student’s DCP, the delegated care aide is required to consult with the parent/guardian, school nurse (where available), or health care provider to confirm that the insulin dosage is appropriate given the number of carbohydrates to be taken and the student’s blood glucose level as determined by a glucometer reading.
- **In schools that have a student with diabetes, all school employees are required to have training** in the basis of diabetes care, how to identify when a diabetic student needs immediate or emergency medical care, and the individual(s) to contact in the case of an emergency. In addition, **delegated care aides must be trained to perform specified tasks** necessary to assist a student with diabetes in accordance with his or her DCP, including training on how to:
 - check blood glucose and record results;
 - recognize and respond to the symptoms of hypoglycemia according to the DCP;
 - recognize and respond to the symptoms of hyperglycemia according to the DCP;
 - estimate the number of carbohydrates in a snack or lunch;
 - administer insulin according to the student’s DCP and keep a record of the amount administered; and
 - respond in an emergency, including how to administer glucagon and call 911.
- Initial training must be consistent with the guidelines of the U.S. Department of Health and Human Services, provided by a licensed healthcare provider with expertise in diabetes or a certified diabetic educator, and individualized by the student’s parent/guardian.

- **Any school employee who transports a diabetic student for school-sponsored activities must be given an information sheet** that identifies the diabetic student, identifies potential emergencies that may occur as a result of his or her diabetes and appropriate responses to such emergencies, and provides emergency contact information.
- **Any student whose DCP so authorizes must be allowed to self-manage his or her diabetes at school**, including:
 - checking blood glucose when and wherever needed;
 - administering insulin;
 - treating hypoglycemia and hyperglycemia and otherwise attending to the care and management of his or her diabetes in the classroom, in any area of the school or school grounds, and at any school-related activity or event; and
 - having on his or her person at all times the supplies and equipment necessary to monitor and treat diabetes (including glucometers, lancets, test strips, insulin, syringes, insulin pens and needle tips, insulin pumps, infusion sets, alcohol swabs, a glucagon injection kit, glucose tablets, and food and drink) in accordance with the DCP.
- Districts are prohibited from restricting the assignment of a student with diabetes to a particular school on the basis that the school does not have a full-time school nurse. Districts are also prohibited from denying a student access to any school or school-related activity on the basis that he or she has diabetes.
- No State reimbursement to school districts for implementation of the mandates of the Act is required.

This Act obviously poses a number of questions and challenges for school districts, such as:

- how the Act's requirements for a delegated care aide to administer medication to a student can be reconciled with conflicting provisions of the Illinois Nursing Act;
- how the Act's requirements for a delegated care aide to agree to receive training in diabetes care and to enter into an agreement with a parent/guardian and school district can be reconciled with potentially conflicting provisions of an existing collective bargaining agreement and/or board policies on staff assignment and training;
- how the Act's requirements for adoption of a DCP presented by a parent/guardian can be reconciled with the conflicting provisions of Section 504 and, where applicable, the IDEA;

- how school districts will allocate the funds and time needed for the required all-staff and delegated care aide training; and
- whether and to what extent the requirement that transportation providers be given an information sheet should be extended to other school personnel (e.g., staff who supervise after-school or off-campus activities).

Teri Engler of our firm, who was recently appointed to the Executive Committee of the Illinois Council of School Attorneys (“ICSA”), will be working with ICSA and the Illinois Association of School Boards to develop model diabetes care procedures for school districts. Our firm will also be addressing these issues at our upcoming Legal Breakfasts on January 26 and 28, 2011. In the meantime, should you wish to discuss the requirements of the Care of Students with Diabetes Act with us, feel free to contact Ms. Engler or one of our other attorneys.