



CLIENT NEWS BRIEF

October 2011

Number 66

GOVERNOR SIGNS BILL ALLOWING UNLICENSED SCHOOL EMPLOYEES TO ADMINISTER EMERGENCY EPILEPSY MEDICATION

On October 7, 2011, Governor Jerry Brown signed into law Senate Bill (SB) 161, allowing unlicensed school personnel who volunteer and receive proper training to administer Diastat, an emergency anti-seizure medication, to students with epilepsy. However, whenever possible, Diastat should be administered by a licensed nurse. SB 161 adds section 49414.7 to the Education Code and goes into effect on January 1, 2012.

SB 161 allows a parent or guardian of a student with epilepsy to request that one or more school employees receive voluntary training in how to administer Diastat to his or her child when a nurse is not available. *Educational agencies may solicit volunteers no more than two times each school year per child, and only by sending staff an electronic notice.* The notice must include a description of the volunteer request, the training program, the voluntary nature of the program, and the right to rescind subject to prescribed timelines. The educational agency must also notify a parent that his or her child may qualify for an individualized education program (IEP) or a Section 504 plan.

Under SB 161, Diastat training must be provided by a licensed healthcare professional and must follow California Department of Education (CDE) guidelines, which the CDE is required to post on its website by July 1, 2012. Diastat must be administered pursuant to the instructions of the student's physician. The new law further provides that the educational agency must defend and indemnify each employee volunteer against any civil liability associated with the administration of Diastat.

Passage of SB 161 does not resolve ongoing litigation in California courts regarding the administration of insulin by unlicensed school employees. (Please see [Client News Brief No. 20, June 2010](#).) That case has been appealed to the California Supreme Court, and a decision is expected within the next few months.

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If you have any questions about how to implement the provisions of SB 161, such as the training guidelines and specific notice requirements, please contact one of our [eight offices](#) located statewide, visit our [website](#), or follow Lozano Smith on [Facebook](#).

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As the information contained herein is necessarily general, its application to a particular set of facts and circumstances may vary. For this reason, this News Brief does not constitute legal advice. We recommend that you consult with your counsel prior to acting on the information contained herein.