



8515 GEORGIA AVENUE, SUITE 400  
SILVER SPRING, MARYLAND 20910-3492  
301 628-5000 • FAX 301 628-5001  
www.NursingWorld.org

REBECCA M. PATTON, MSN, RN, CNOR  
PRESIDENT

LINDA J. STIERLE, MSN, RN, CNAAB, BC  
CHIEF EXECUTIVE OFFICER

## ***TALKING POINTS***

### ***The Filing of the Lawsuit***

- The American Nurses Association (ANA) and American Nurses Association/California (ANA\C) today filed a lawsuit in the Superior Court of the State of California against the State Department of Education to remedy violations of law arising from its directive that calls on unlicensed volunteer school employees to administer insulin to students with diabetes.
- The directive issued in the form of a “legal advisory” is really a regulation that should have been published for public comment prior to implementation. The lawsuit contends that the California State Department of Education violated the state’s Administrative Procedure Act.
- The directive would permit unlicensed school personnel to administer insulin whenever a licensed health care provider is not available. The lawsuit contends that this violates the state’s Nursing Practice Act and endangers student’s health and well-being.
- In the lawsuit, ANA and ANA/C are asking the court to order the State Department of Education to rescind the directive.
- Supporting anti-discrimination laws and the rights of disabled students to receive a public education, ANA and ANA\California believe that the State Department of Education must make arrangements for properly licensed healthcare personnel to administer needed insulin to children with diabetes. The Department of Education cannot meet its legal obligations in one area by violating the law in another area.
- ANA and ANA\California urge the state’s public school administrators to hire more RNs or other licensed personnel to provide needed care to children with diabetes, instead of allowing unlicensed school employees to administer insulin to the students and placing them at risk.
- Administering insulin requires professional assessment both before and after the medication is given. While the law permits parents or the student him- or herself to administer insulin, unlicensed school employees may lawfully administer insulin *only* in a true emergency, such as an epidemic or public disaster.
- ANA recommends the assignment and daily availability of school nurses in educational settings to address the safety and health care needs of the nation's children, at a minimum ratio of one for every 750 students.

- In California, the current ratio of nurses to students is approximately 1 to 2700.
- The State Department of California is likely to call upon school nurses or other licensed personnel to supervise unlicensed school employees who will administer insulin. ANA members – California school nurses – would be at risk of disciplinary action by the State Board of Nursing, including the possible loss of their license to practice nursing based on the ANA member’s promotion of activity contrary to the Nursing Practice Act.
- By attempting to permit unlicensed personnel to administer insulin to students, the California State Department of Education is diminishing the established scope of nursing practice, which defines the administration of medication as a function within the scope of nursing practice.
- The need for professional registered nurses to perform the complex diagnostics that occur in the administration of insulin should not be discounted.
- Until this issue is resolved, ANA urges its members to adhere to the Nursing Practice Act and work collaboratively with the local educational agency, school district, and school site administrator to ensure that the insulin is administered only by persons legally authorized to do so, pursuant to California law.

### ***Background Information***

- In early August 2007, the California Department of Education announced that it would require schools to have a staff member who could administer insulin and other services to children with diabetes if a school nurse or other school health care professional is not available. In general, schools can either hire nurses to provide this care or train other staff, under the policy, which was created as part of a federal court settlement.
- The case that was settled involved the provision of insulin to students who were seeking enforcement of their rights under Title II of the Americans With Disabilities Act, Section 504 of the Rehabilitation Act of 1973 and the Individuals With Disabilities Education Act (IDEA).
- This settlement is at odds with state law; it is illegal for nurses to delegate to any unlicensed person the ability to administer medications.
- The State Department of Education’s directive, described as a “Legal Advisory” adds a new and illegal category to the Business and Professions Code section 2725 and the California Code of Regulations authorizing the types of persons to administer insulin in California’s schools, stating, “Voluntary school employee who is unlicensed but who has been adequately trained to administer insulin pursuant to the student’s treating physician’s orders as required by the Section 504 Plan or the IEP” (individual education plan under IDEA.)

- The Nursing Practice Act, in Business and Professions Code section 2732, states “No person shall engage in the practice of nursing, as defined in Section 2725, without holding a license which is in an active status issued under this chapter except as otherwise provided in this act.”

### *ANA Support of School Nurses*

- On any given weekday, as much as 20% of the combined US population of children and adults can be found in schools.
- The prevalence and complexity of children's health problems affect every US classroom, with the US Agency for Healthcare Research and Quality (AHRQ) reporting that roughly 20 million of the nation's children suffer from at least one chronic health problem.
- ANA strongly believes that public policy must guarantee a central health care professional - educated, knowledgeable and with up-to-date skills - to be available daily to students in the educational setting, to best protect the fundamental public health and educational priority our nation's children represent.
- That professional is the registered school nurse.
- A growing body of research emphasizes the positive effect of children's good health on academic potential, and specifically, the positive link between school nurse availability and student attendance and academic performance.
- The Journal of School Health published a 2004 study that associated school nurse involvement with positive influences on health and disease management. The Journal of School Nursing and the American School Board Journal each published studies which showed a correlation between facilities with a full time nurse and better school performance and attendance.
- For more information about ANA's position on school nurses and children's health and safety in schools, please go to [www.nursingworld.org/readroom/position/practice/AssuringSafeHealthCarePreK.pdf](http://www.nursingworld.org/readroom/position/practice/AssuringSafeHealthCarePreK.pdf)