

1 PILLSBURY WINTHROP SHAW PITTMAN LLP
JOHN S. POULOS #154689
2 CHRISTOPHER R. RODRIGUEZ #212274
CARRIE L. BONNINGTON #227570
3 400 Capitol Mall, Suite 1700
Sacramento, CA 95814-4419
4 Telephone: (916) 329-4700
Facsimile: (916) 441-3583

5 AMERICAN NURSES ASSOCIATION
ALICE L. BODLEY, GENERAL COUNSEL
6 JOCELYN WINSTON, SENIOR COUNSEL
MAUREEN E. CONES, SENIOR COUNSEL
7 8515 GEORGIA AVENUE, SUITE 400
SILVER SPRING, MD 20910
8 TELEPHONE: (301) 628-5123
FACSIMILE: (301) 628-5345

9 ATTORNEYS FOR PLAINTIFFS AND PETITIONERS
10 AMERICAN NURSES ASSOCIATION;
AMERICAN NURSES ASSOCIATION/CALIFORNIA; AND
11 CALIFORNIA SCHOOL NURSES ORGANIZATION

12 CALIFORNIA NURSES ASSOCIATION
LEGAL DEPARTMENT
13 PAMELA ALLEN #139136
LINDA M. SHIPLEY #230165
14 2000 FRANKLIN STREET, SUITE 300
OAKLAND, CA 94612
15 TELEPHONE: (510) 273-2271
FACSIMILE: (510) 663-4822

16 ATTORNEYS FOR PLAINTIFF AND PETITIONER
17 CALIFORNIA NURSES ASSOCIATION

18 SUPERIOR COURT OF THE STATE OF CALIFORNIA
19 IN AND FOR THE COUNTY OF SACRAMENTO

20 AMERICAN NURSES ASSOCIATION; and
AMERICAN NURSES ASSOCIATION/CALIFORNIA,
21 CALIFORNIA SCHOOL NURSES ORGANIZATION;
and CALIFORNIA NURSES ASSOCIATION,
22 Petitioners/Petitioners,
23 vs.
24 JACK O'CONNELL, STATE SUPERINTENDENT OF
PUBLIC INSTRUCTION; and STATE DEPARTMENT
OF EDUCATION,
25 Defendants/Respondents.
26 AMERICAN DIABETES ASSOCIATION, an
27 organization,
28 Intervenor.

Case No. 07AS04631
DECLARATION OF NANCY
SPRADLING IN SUPPORT
OF PETITIONERS'
MEMORANDUM OF
POINTS AND
AUTHORITIES IN REPLY
TO BRIEFS IN OPPOSITION
TO VERIFIED SECOND
AMENDED PETITION FOR
WRIT OF MANDATE AND
COMPLAINT FOR
DECLARATORY AND
INJUNCTIVE RELIEF

1 I, Nancy Spradling, declare as follows:

2 1. I am the Executive Director of the California School Nurses Organization
3 ("CSNO"), a Plaintiff and Petitioner in the above-referenced matter. As a result of my
4 position with CSNO, and through my personal knowledge, education, training and
5 experience, I have firsthand knowledge of the facts set forth in this declaration. If called as
6 a witness, I could and would testify thereto.

7 2. Sometime in mid-2006, the California Department of Education ("CDE")
8 published a document entitled "Medication Administration Assistance in California." I
9 obtained that document from CDE's website, www.cde.ca.gov. It was removed from
10 CDE's website while the case known as K.C. v. O'Connell was pending and it is no longer
11 available on CDE's website. A true, accurate and complete copy of the document is
12 attached hereto as Exhibit 1.

13 I declare, under penalty of perjury under the laws of the State of California, that the
14 foregoing is true and correct and that this declaration is executed in Sacramento, California
15 on October 20, 2008.

16 
17 Nancy Spradling

18
19
20
21
22
23
24
25
26
27
28

EXHIBIT 1



Curriculum & Instruction	Testing & Accountability	Professional Development
Finance & Grants	Data & Statistics	Learning Support
		Specialized Programs

[Home](#) » [Learning Support](#) » [Health](#) » [Health Services & School Nursing](#)

Medication Administration Assistance in California

Frequently asked questions and a sample checklist providing local educational agencies with helpful information that may be given to parents when children need to take medication at school.

Frequently Asked Questions

Question:

Can unlicensed school personnel administer medication like insulin or rectal diastat to K-12 students in California public schools?

Answer: No¹. California law states², with a few clearly specified legal exceptions, that only a licensed nurse or physician may administer medication. In the school setting, these exceptions are situations where:

The student self-administers the medication;

A parent or parent designee, such as a relative or close friend, administers the medication³; or

There is a public disaster or epidemic.⁴

The Legislature has enacted only two statutes that authorize unlicensed school personnel to be trained and supervised in order to administer two specific medications in medical emergencies:

Under the supervision of a school nurse or physician designee, an unlicensed school employee may administer epinephrine via auto-injector,⁵ and

Under the supervision of a school nurse, physician, registered nurse, or public health nurse, an unlicensed school employee may administer glucagon.⁶

In accordance with *Education Code (EC)* sections 49414 and 49414.5, an unlicensed school employee could "administer" either epinephrine via auto-injector directly into a student suffering anaphylaxis or glucagon via needle and syringe directly into a student suffering from severe hypoglycemia. No other California statute allows an unlicensed school employee to administer any other medication in California public schools, even if the unlicensed school employee is trained and supervised by a school nurse or other similarly licensed nurse.

EC Section 49423 permits the school nurse or other designated school personnel to "assist" students who must "take" medication during the school day that has been prescribed for that student by his or her physician. The terms "assist" and "administer" are plainly not synonymous. An example of an unlicensed school employee "assisting" a student pursuant to *EC* Section 49423 would be when the school secretary removes the cap from the medication bottle, pours out the prescribed dose into a cup or a spoon, and hands the cup or spoon to the student, who then "takes" or self-administers the required medication. There is no clear statutory authority in California permitting that same unlicensed school employee to "administer" insulin, diastat, or any other parenteral⁷ medication, with the above-stated statutory exception of epinephrine via auto-injector and glucagon.

¹ A student with an individualized education program (IEP) or Section 504 plan who requires medication during the school day is entitled to receive such medication in accordance with his or her written plan (*California Code of Regulations*, Title 5, Section 610[d]). The information provided here may serve as a guide to local educational agencies in administering medications to students

with IEPs and Section 504 plans as long as this guidance does not conflict with the student's individually determined plan.

²California *Business and Professions Code (Nursing Practice Act (NPA))* sections 2725 and 2727 and California *Education Code (EC)* Section 49423.

³NPA Section 2727(a) states that parents and other relatives or close friends may administer medication, which is defined as "gratuitous nursing."

⁴NPA Section 2727(d) states that a district not having a school nurse does not qualify as a "public disaster."

⁵EC Section 49414

⁶EC Section 49414.5

⁷Parenteral means any medication administration route other than oral.

California Department of Education
1430 N Street
Sacramento, CA 95814