

Date of Hearing: March 23, 2022

ASSEMBLY COMMITTEE ON EDUCATION  
Patrick O'Donnell, Chair  
AB 1810 (Levine) – As Amended, March 14, 2022

**[Note: This bill was double referred to the Assembly Judiciary Committee and will be heard by that Committee as it relates to issues under its jurisdiction.]**

**SUBJECT:** Pupil health: seizure disorders

**SUMMARY:** Authorizes a school or a local educational agency (LEA) to train an employee who has volunteered to administer emergency anti-seizure medication to a pupil upon the request of the parent, requires the development of state standards for the training, and requires the parent to provide specified information to the LEA, including a seizure action plan. Specifically, **this bill:**

- 1) Establishes the Seizure Safe Schools Act.
- 2) Authorizes a school or an LEA, upon a request from the parent or guardian of a pupil diagnosed with seizures, a seizure disorder, or epilepsy, to designate one or more volunteers at the pupil's school to receive initial and annual refresher training regarding the emergency use of anti-seizure medication from the school nurse or other qualified person, as specified.
- 3) Prohibits any retaliation against any individual who chooses not to volunteer or who rescinds the individual's offer to volunteer, including after receiving training.
- 4) Authorizes an employee who volunteers to administer emergency anti-seizure medication to rescind their offer at any time, including after receipt of training.
- 5) Authorizes a school nurse, or if a school nurse is not available, a volunteer, who has received training, to administer emergency anti-seizure medication to a pupil who is suffering from a seizure.
- 6) Requires the Superintendent of Public Instruction (SPI) to establish minimum standards of training to recognize and respond to seizures, including training for the administration of anti-seizure medication by July 1, 2023, and to review the standards every five years or sooner.
- 7) Requires the SPI to consult with specified organizations and providers with expertise in epilepsy and administering medications, in developing these minimum standards of training, including, but not limited to the Epilepsy Foundation, California School Nurses Organization, California Medical Association, and the American Academy of Pediatrics (AAP).
- 8) Requires that the training include all of the following:
  - a) Recognition of the signs and symptoms of seizures and the appropriate steps to be taken to respond to those symptoms;

- b) Administration, or assisting with the self-administration of, an emergency anti-seizure medication, or a medication or therapy prescribed to treat the symptoms of seizures, seizure disorders, or epilepsy, including manual vagus nerve stimulation, approved by the U.S. Food and Drug Administration (FDA) or any successor agency;
  - c) Basic emergency follow-up procedures; and
  - d) Written materials covering the information required.
- 9) Requires that training established be consistent with the most recent guidelines for medication administration issued by the California Department of Education (CDE), and be provided to the volunteer at no cost to the volunteer during their regular working hours.
- 10) Requires that a school retain for reference the written materials required by (8)(d).
- 11) Requires the CDE to include a clearinghouse on its website for best practices in training non-medical personnel to administer emergency anti-seizure medication.
- 12) Requires an LEA or school, upon request from a parent or guardian, to distribute a notice at least once, but not more than two times, per school year to all staff, including all of the following information:
- a) A description of the request for volunteers to be trained to recognize and respond to seizures, including training to administer anti-seizure medication to a pupil suffering from a seizure;
  - b) A description of the training that the volunteer will receive, as specified;
  - c) The right of an employee to rescind their offer to volunteer; and
  - d) A statement that there will be no retaliation against any individual for rescinding their offer to volunteer, including after receiving training.
- 13) Notwithstanding (12), authorizes an additional two notices per school year to be distributed to all staff if a volunteer rescinds their offer to volunteer or is no longer able to act as a volunteer for any reason, or if the placement of a pupil changes and the pupil no longer has access to a trained volunteer.
- 14) Requires, upon receipt of the parent or guardian's request, the LEA to notify the parent or guardian that the pupil may qualify for services or accommodations through a 504 plan or an individualized education program (IEP), and to assist the parent or guardian with the exploration of that option.
- 15) Authorizes the LEA to ask the parent or guardian to sign a notice verifying that they were given information about 504 plans and IEPs and that they understand that it is the parent or guardian's right to request these at any time.
- 16) Requires an LEA, if there are no volunteers at the pupil's school to receive the training and to be willing to administer anti-seizure medication, to notify the parent or guardian of the pupil's right to be assessed for services and accommodations guaranteed by federal law.

- 17) Specifies that this section does not preclude the negotiation by collective bargaining of additional compensation for volunteers.
- 18) Requires an LEA, prior to administering emergency anti-seizure medication or therapy to a pupil, to obtain a seizure action plan from the pupil's parent or guardian that includes all of the following:
- a) Authorization in writing each school year for the medication to be administered to the pupil at school;
  - b) A copy of the statement from the pupil's health care provider that includes all of the following information:
    - i) pupil's name;
    - ii) name and purpose of the medication;
    - iii) prescribed dosage;
    - iv) method of administration;
    - v) frequency with which the medication may be administered;
    - vi) detailed seizure symptoms that identify when the medication is necessary;
    - vii) circumstances under which the medication may be administered;
    - viii) any potential adverse responses and recommended mitigation measures, including when to call emergency services, including 911; and
    - ix) a protocol for observing the pupil after a seizure, including the length of time the pupil should be under direct observation.
  - c) How and where the emergency anti-seizure medication will be stored at the school;
  - d) A signed notice verifying that the parent or guardian was given information, and understands that it is their right to request a 504 plan or IEP at any time; and
  - e) A signed notice verifying that a pupil's seizures may be responded to, including with the administration of anti-seizure medication prescribed to the pupil, by a non-medical professional who has received training.
- 19) Requires a school administrator, or their designee, to notify the school nurse if an employee at the school administers an emergency anti-seizure medication, or if there is no school nurse in the LEA, to notify a superintendent or administrator.
- 20) Requires the school nurse assigned to the school or a nurse from the LEA to collaborate with the parent or guardian of a pupil diagnosed with seizures, a seizure disorder, or epilepsy to create a seizure action plan if the pupil does not have an IEP or 504 plan.

- 21) Requires the school, with written parental consent, to distribute the seizure action plan to any school personnel or volunteers responsible for the supervision or care of that pupil, and to keep the plan on file in the office of the school nurse or school administrator, in compliance with all state and federal privacy laws.
- 22) Requires that the anti-seizure medication to be provided to the school with the dispensing pharmacy's label intact.
- 23) Requires an LEA to ensure that each employee who volunteers to administer anti-seizure medication will be provided defense and indemnification by the LEA for any and all civil liability, and requires that this information be provided in writing to the volunteer and retained in their personnel file.
- 24) Specifies that a trained person who administers anti-seizure medication, in good faith and not for compensation, to a pupil who appears to be experiencing a seizure will not be subject to professional review, be liable in a civil action, or be subject to criminal prosecution for the person's acts or omissions in administering the anti-seizure medication.
- 25) Specifies that these protections above do not apply in a case of gross negligence or willful and wanton misconduct of the person who renders emergency care by the use of emergency anti-seizure medication.
- 26) Clarifies that a public employee who volunteers to administer emergency anti-seizure medication is not providing emergency medical care for compensation, despite being a paid public employee.
- 27) Defines the following terms for purposes of this article:
  - a) "Authorizing physician and surgeon" may include, but is not limited to, a physician and surgeon employed by or contracted with an LEA, a medical director of the local health department, or a local emergency medical services director;
  - b) "Local educational agency" means a school district, county office of education (COE), or charter school;
  - c) "School" means a public school maintained by a school district, COE, or charter school;
  - d) "Seizure action plan" means a written, individualized health plan designed to acknowledge and prepare for the health care needs of a pupil diagnosed with seizures, a seizure disorder, or epilepsy.
  - e) "Volunteer" means an employee who has volunteered to administer emergency anti-seizure medication to a pupil suffering from a seizure, has been designated by a school or LEA, and who has received training, as specified.

**EXISTING LAW:**

## Federal Law

- 1) The Individuals with Disabilities Education Act (IDEA) governs IEPs and the special education process. IDEA guarantees children with disabilities a “free appropriate public education” in the least restrictive environment.
- 2) Section 504 of the Rehabilitation Act of 1973 provides federal financial assistance to state and LEAs to guarantee special education and related services to eligible children with disabilities.
- 3) Requires school districts to provide a free appropriate public education to each qualified person with a disability who is in the school district’s jurisdiction, regardless of the nature or severity of the person’s disability, which includes reasonable accommodations required for the management of chronic medical conditions.

## State Law

- 1) Requires the governing board of any school district to give diligent care to the health and physical development of pupils, which may include employing properly certified persons for the work. (Education Code (EC) Section 49400)
- 2) Provides that each pupil who is required to take prescribed medication by a health care provider during the school day may be assisted by the school nurse or other designated school personnel if the school district receives a written statement from the physician detailing the name of the medication, method, amount, and time schedules by which the medication is to be taken, and a written statement from the parent, foster parent, or guardian of the pupil, indicating the desire that the school district assist the pupil in the matters set forth in the physician’s statement. (EC 49423)
- 3) Requires the CDE, by June 15, 2001, to develop and recommend to the State Board of Education (SBE), regulations regarding the administration of medications in public schools pursuant to Section 49423. Requires that these regulations be developed in consultation with parents, medical and nursing profession representatives, and other individuals, as specified. Limits any regulations adopted pursuant to this section to addressing a situation where a pupil’s parent or legal guardian has requested to have the LEA dispense medication to the pupil, based upon written consent, and within the guidelines prescribed by the pupil’s health care provider. (EC 49423.6)
- 4) Authorizes schools to choose to allow non-medical school personnel to administer, or assist with the administration of, the following medications to students after receiving specified training and with parental and medical consent, if a school nurse is not available:
  - a) Emergency epinephrine auto-injectors. A prescription for an auto-injector for a specific student is not required. The school may make emergency epinephrine auto-injectors available at the school (EC 49414);

- b) Emergency naloxone hydrochloride or another opioid antagonist to provide emergency medical aid to persons suffering from an opioid overdose (EC 49414.3);
  - c) Glucagon to be administered to students with diabetes suffering from severe hypoglycemia (EC 49414.5); and
  - d) Inhaled asthma medication for a pupil who is required to take, during the school day, medication prescribed by a health care provider (EC 49423.1).
- 5) Any pupil who is required to take, during the regular school day, prescribed medication may be assisted by a school nurse or other designated school personnel if both of the following conditions are met:
- a) The pupil's authorized health care provider executes a written statement specifying, at a minimum, the medication the pupil is to take, the dosage, and the period of time during which the medication is to be taken, as well as otherwise detailing (as may be necessary) the method, amount, and time schedule by which the medication is to be taken.
  - b) The pupil's parent or legal guardian provides a written statement initiating a request to have the medication administered to the pupil or to have the pupil otherwise assisted in the administration of the medication, in accordance with the authorized health care provider's written statement. (Title 5 California Code of Regulation (CCR) 600-611)
- 6) Requires that a school nurse be a licensed registered nurse who has completed the additional educational requirements and possess a current credential in school nursing. (Business & Professions (B&P) Code 2700, EC 44877).
- 7) Specifies in the Nursing Practices Act, the scope of practice for nursing, which specifically includes the administration of medication, and prohibits any person from engaging in the practice of nursing without a license (B&P 2725 and 2732).

**FISCAL EFFECT:** The Office of Legislative Counsel has identified this bill as a possible state-mandated local program.

**COMMENTS:**

***Need for the bill.*** According to the author, “AB 1810 would establish the Seizure Safe Schools Act to allow schools to designate one or more volunteers to receive initial and annual refresher training for the emergency use of anti-seizure medication for a pupil diagnosed with seizures, a seizure disorder, or epilepsy, if the pupil is suffering from a seizure. California has enacted similar laws for the use of epinephrine for allergic reactions and naloxone for opioid overdoses.

The volunteer training would include recognition of the signs and symptoms of seizures and the appropriate steps to be taken to respond to those symptoms. In addition, the bill would provide for the development of “seizure action plans” for all students diagnosed with epilepsy or seizures and identify students eligible for IEPs and Section 504 accommodations. AB 1810 would also guarantee protections for the employees who volunteer to administer the medication.

Twelve states have already implemented versions of the Seizure Safe Schools Act. This bill will provide school sites with information and training necessary to aid children with epilepsy while on campus and create a safer environment for these children to succeed.”

***Managing epilepsy at school.*** Nearly 1% of U.S. children have a lifetime prevalence of epilepsy, making it one of the most common neurologic diagnoses. (AAP, 2016). According to the Center for Disease Control (CDC), the number of children with epilepsy nationwide increased from 450,000 in 2007 to 470,000 in 2015.

Compared with students with other health concerns, a CDC study shows that students aged 6–17 years with epilepsy were more likely to miss 11 or more days of school in the past year. Also, students with epilepsy were more likely to have difficulties in school, use special education services, and have activity limitations such as less participation in sports or clubs compared with students with other medical conditions. Children and adolescents with epilepsy may experience prolonged seizures in school-associated settings and administering a seizure rescue medication may abort the seizure and obviate the need for emergency medical services and subsequent care in the emergency department (AAP, 2016).

The CDC notes that managing epilepsy while at school may involve, but is not limited to:

- Educating the school nurse, teachers, staff, and students about epilepsy and its treatment, seizure first aid, and possible stigma associated with epilepsy;
- Following the seizure action plan and administering first aid (including the use of rescue medications);
- Understanding the importance of medication adherence and supporting students who take daily medications;
- Helping students avoid seizure triggers, such as flashing lights, or other triggers identified in the seizure action plan;
- Providing case management services for students whose medical condition disrupts their school attendance or academic performance; and
- Understanding the laws related to disability, medical conditions, and special education to ensure that children with epilepsy are able to access the free and appropriate education afforded to them under the law.

According to the CDC, a seizure action plan contains the essential information school staff may need to know in order to help a student who has seizures. It includes information on first aid, parent and health care provider contacts, and medications specifically for that child. Seizure Action Plans are an important tool that help parents and schools partner to keep children safe and healthy during the school day.

***Variety of anti-seizure medications available.*** According to the sponsors, “Emergency anti-seizure medications have been approved by the FDA to be given outside of hospital settings by parents and non-medical caregivers. Administration of these medications may be oral, sublingual, buccal, rectal or intranasal. As of 2022, current medications approved by the FDA for

these purposes include diazepam (nasal, rectal), midazolam (nasal, buccal), and clonazepam (oral).” The medication to be administered to a particular pupil will be determined by the pupil’s healthcare provider.

***Health services in California schools.*** The AAP calls for a minimum of one full-time registered nurse in every school. According to the California School Nurses Organization, the distribution of school nurses by school district varies substantially throughout the state, with many schools having no school nurses on site. As of 2018-19, there were 2,720 credential school nurses in California. This clearly fails to meet the recommended threshold of one nurse per school as there are more than 10,000 public K-12 schools in California.

***Current authority to administer medication.*** The California School Boards Association (CSBA) sample board policies on administration of medication by school personnel notes that various provisions of state law allow districts to train non-medical employees to provide medical assistance to students at a school when a credentialed school nurse or other licensed individual is unavailable. CSBA notes that current statutory provisions have been implemented to authorize non-medical personnel to be trained to administer or assist with the administration of certain medications to students suffering from allergic reactions, opioid overdoses, severe hypoglycemia, and asthma.

In *American Nurses Association v. Torlakson*, the Supreme Court held that, as with other prescription medications, state law permits trained, unlicensed school personnel to administer insulin to students where a physician has determined that unlicensed school personnel may safely and appropriately deliver the medication.

CSBA guidance further notes that pursuant to the general authority in Education Code Section 49423, as well as regulation 5 CCR 600-611, as interpreted by the California Supreme Court, as noted above, health providers may train unlicensed school personnel to administer medication, including emergency anti-seizure medication, subject to written authorization from a physician and with parental consent.

The CSBA policies suggest that when district employees are authorized to administer medications, the following protections must be in place:

- Non-medical personnel designated to administer medication to pupils must receive appropriate training from qualified medical personnel, and update such training as necessary;
- The training must cover how and when such medication should be administered, the recognition of symptoms, and treatment; emergency follow-up procedures, and the proper documentation and storage of medications;
- Non-medical personnel administering medication to a pupil should be provided with immediate communication access to a school nurse, physician, or other appropriate individual;
- The Superintendent or designee must maintain documentation of training, and ongoing supervision;
- Non-medical personnel must be afforded appropriate liability protections.

***Current practices of school districts for dealing with pupils with epilepsy.*** School health officials report that students with seizure diagnoses have “student specific” protocols or individualized health plans, or in some cases, students may have a 504 plan or an IEP. School nurses and physicians have been training both licensed and unlicensed personnel for many years in responding to the symptoms of a seizure disorder, including the administration of medication, when the appropriate consent has been provided by the parent as well as the healthcare provider.

These officials note that this training is often student-specific as each student’s seizure signs, symptoms, and response may be very different. Treatments are often individualized and may require different responses, depending upon the severity of the seizure. This makes it difficult for non-medical personnel who don’t necessarily have the skill or experience to make these assessments.

***Prior statute on this topic sunset.*** SB 161 (Huff) Chapter 560, Statutes of 2011, added Education Code Section 49414.7 which authorized school districts to train non-medical school employees, who volunteer, to administer emergency anti-seizure medication to students with epilepsy. Schools electing to participate were required to develop a school plan including the identification of staff to be trained, pupils who may require anti-seizure medication, authorization from the parent, and written instructions from the pupil’s healthcare provider.

A parent of a pupil with epilepsy was authorized to request that the pupil’s school have one or more of its employees receive training in the administration of anti-seizure medication in the event that a pupil suffered a seizure when a nurse was not available. The measure also authorized, but did not require, schools to prepare an individualized health plan or seizure action plan to prepare for the child’s health care needs in school.

This statute also contained significant protections for employee volunteers to avoid coercion by school administrators, as well as protections from civil liability.

The CDE was required to develop guidelines for the training and supervision of employees under these provisions and to post this information on its website. The CDE was also required to include on its website a clearinghouse for best practices in training nonmedical personnel to administer an emergency anti-seizure medication to pupils.

This statute sunset on January 1, 2017, pursuant to the provisions of the 2011 bill. The CDE has maintained information and guidelines on the administration of seizure rescue medications, and other considerations for schools dealing with a pupil with a seizure disorder. The regulations that the SBE was required to adopt have been repealed, as the requirement sunset.

***Arguments in support.*** The Epilepsy Foundation Los Angeles, sponsor of this measure, states “There are approximately 59,800 children living with epilepsy and seizures in California. Our organization knows that seizures are unpredictable and can occur at any time—including during school hours. While school nurses are trained to recognize and respond to seizures, a nurse may not always be on site at school or available when one occurs. It is crucial that other school employees have the opportunity to be trained properly to recognize and, if necessary, to respond to a seizure and help the child.

In 2013, the Supreme Court of California ruled that non-medical school personnel may respond to a student having a seizure and administer any emergency anti-seizure medication prescribed to the student, but there is no uniform standard for training those school employees. AB 1810

would close that gap, as well as offer additional protections to the school employees who assist a student having a seizure. We are confident that AB 1810 will provide school sites with the information and training necessary to aid children with epilepsy while on campus and create a safer environment for these children to succeed. Twelve states have already implemented versions of the Seizure Safe Schools Act—it's time for California to do the same and make schools safer for students with epilepsy.”

**Related legislation.** AB 2116 (Levine) of the 2019-20 Session would have required each LEA to train nonmedical staff in providing emergency assistance to a pupil suffering from epilepsy, including medication administration, to train other staff in recognizing the signs of seizure and the appropriate responses, to develop a seizure action plan for each pupil with a seizure disorder, to provide an age-appropriate seizure education program for all pupils, and for the SBE to develop appropriate regulations. This bill was held in the Assembly Education Committee.

AB 1748 (Mayes) Chapter 557, Statutes of 2016, authorizes school nurses and other trained personnel to use naloxone hydrochloride (naloxone) or another opioid antagonist to provide emergency medical aid to persons suffering, or reasonably believed to be suffering, from an opioid overdose.

SB 1266 (Huff) Chapter 321, Statutes of 2014, requires school districts, COEs, and charter schools to provide emergency epinephrine auto-injectors to school nurses or trained personnel who have volunteered, as specified. Authorizes school nurses or trained personnel to use the epinephrine auto-injectors to provide emergency medical aid to persons suffering, or reasonably believed to be suffering, from an anaphylactic reaction.

SB 161 (Huff) Chapter 560, Statutes of 2011, authorized school districts, COEs, and charter schools to participate in a program to train nonmedical school employees who volunteer to administer emergency anti-seizure medication to students with epilepsy. The provisions in this bill were repealed on January 1, 2017.

## **REGISTERED SUPPORT / OPPOSITION:**

### **Support**

California Neurology Society  
Epilepsy Foundation  
Epilepsy Foundation of Northern California  
Epilepsy Foundation of San Diego County  
Momentum  
National Association of Pediatric Nurse Practitioners  
Neurelis, Inc.  
Seizure Action Plan Coalition  
The Coelho Center for Disability Law Policy and Innovation

### **Opposition**

None on file

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