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TO: Property & Liability Members

FROM: Susan Adams, Executive Director

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SUBJECT: * HEADS UP *

MEDICAL SITUATIONS/MEDICATIONS
(Epinephrine, Insulin, Diazepam/Diastat, Vaccinations)

Questions and concerns continue to be raised regarding the administration of emergency medical assistance to Students, the associated training opportunities and/or requirements for unlicensed volunteer medication administrators, and vaccination rights and obligations for both Students and Employees. This Heads Up provides updated guidance on several of the most common issues associated with these important topics

EMERGENCY CARDS/EMERGENCY CARE OPT-OUT

In keeping with Education Code Section 49408, parents need to complete and submit each year "emergency medical contact" information cards/forms (electronic or hard copy). Parents may not refuse to complete this information, but may "opt-out" of the Member's otherwise existing right and duty to provide and/or authorize emergency medical care when a parent or guardian cannot otherwise be timely contacted. Education Code Section 49407. For parents wishing to "opt out" of this statutory authorization, Members should use the previously prepared Objection to the Providing of Emergency Medical Care form.

Although parents may submit the Objection Form for regular, on-campus curricular activities, the Field Trip, Athletic Participation, and Activity Participation forms expressly extend and confirm the Member's right to direct emergency medical care while the Student is participating in these activities. Unless a parent's Objection is based on personal religious beliefs, a Student may be denied participation in such activities (because such activities are "privileges," not "rights") due to the increased hazards associated with off-campus, athletic, and/or special classes and programs and the potential need for medical care and attention, particularly in situations where a volunteer (i.e., while chaperoning a field trip) may be the immediately supervising party. If a religious Objection is filed, the Student should be allowed to participate in such activities and the parent may "cross out" the medical authorization sections of these forms.

VACCINATIONS — EMPLOYEES AND STUDENTS

California law requires **Students** to be immunized unless (1) their parents sign a statement stating that immunization is contrary to their beliefs; or (2) a physician statement indicates that immunization is not considered safe for the child. An exemption may be temporary or permanent, and may be for specific vaccines or for all vaccines. Absent such exemptions, prior to entering kindergarten (or transferring districts, particularly from out-of-state school districts), the parents must provide evidence of vaccinations for Diphtheria, Pertussis, Tetanus (DPT), Polio, Measles, Mumps, and Rubella (MMR), Hepatitis **B**, and Varicella (chickenpox). If an exemption applies, the students can be excluded from school if there is a confirmed outbreak of a communicable disease for which he/she is not vaccinated.

Member **Employees** are not subject to these same requirements. There presently is neither law, nor any provision in a negotiated collective bargaining agreement, which would allow a Member to require employees to be vaccinated, although the employee may be excluded from a site in order to avoid infection if there is a confirmed outbreak of a communicable disease at the site.

MEDICATION AND MEDICATION ASSISTANCE

I. MEDICATION ASSISTANCE AUTHORIZATION FORM

Given recent questions and concerns (i.e., student possession/misuse of Medication), the Medication Assistance Authorization Form ("MAAF") has been modified to address these concerns, although the MAAF has not been substantively modified and would be appropriate for use in either the current or prior version. As to questions regarding the "length" or "legal" provisions in the MAAF, those matters cannot be changed. The MAAF is intended to help Members navigate complicated laws and regulations ("ADA"/"Section 504"/"IDEA"), provide important information regarding rights and obligations to parents, and important risk management provisions. The MAAF cannot be shortened or modified without materially damaging these important goals and objectives.

II. UPDATED RECOMMENDED BOARD POLICIES/ADMINISTRATIVE REGULATION

As with the MAAF, minor modifications have been made to the recommended BPs/ARs regarding medication assistance and policies. Key additions arise from the CDE's new regulations relating to Diazepam/Diastat, discussed below, including training and privacy requirements. Both "clean" and "red lined" versions are provided for review.

III. AUTO-INHALERS/EPI-PENS

Upon execution of a MAAF, Students are expressly authorized by statute to carry on their person auto-inhalers and epi-pens. Education Code Sections 49423(a) & 49423.1(a). These items can also voluntarily be stored at a suitable location at a school site. Because such personal possession is authorized by statute, it may only be withdrawn in the case of disciplinary situations (misuse or threatened misuse of the inhalers or epi-pens).

Pursuant to new Education Code Section 49414, Members must now also purchase and maintain at each school site epi-pens (Elem. — 1 reg./1 jr; Middle/High, at least one reg.), which must be expeditiously replaced once used. Members must also annually send a notice seeking volunteer employees to be trained in the administration of epi-pens for use in emergency situations.

As noted by the CDE, pursuant to Education Code Section 49414, a school district volunteer employee may administer epinephrine auto-injections ("epi- pens") to students facing an anaphylactic event. The volunteer employee (a) needs to receive instruction in the proper identification of an anaphylactic event and proper administration of the epinephrine, and (b) maintain a current certification in cardiopulmonary resuscitation from a recognized provider. The District needs to maintain a copy of the volunteer's(s') training certifications, a copy of a duly signed MAAF, and a copy of a log showing the use/administration of such medications. As part of this effort, Members should review and ensure compliance with the CDE's standards for the administration of epinephrine, <http://www.cde.ca.gov/ls/he/hn/epiadmin> asp.

IV. INSULIN ADMINISTRATION

Following the Supreme Court's decision in American Nurses Association v. Torlakson, which once again permitted volunteers to participate in the administration of insulin once properly trained and acting in accordance with a parent's and a physician's directions, CDE reinstated its Legal Advisory regarding Members' rights and obligations under disability rights laws to provide care and assistance to diabetic students. <http://www.cde.ca.gov/LS/he/hn/legaladvisory.asp>. As with the foregoing standards, Members are encouraged to seek volunteer employees to be trained and made available in keeping with all governing standards, which are similar to those for epi-pens, along with requirements to have training in diabetes management and any particular directions for safe use that might be directed by the Student's physician.

V. DIAZEPAM/DIASTAT ADMINISTRATION

Pursuant to Education Code Section 49414.7, Members may elect (**optional**) to allow employees to volunteer to be trained, and to administer in emergency situations, the rectal form of valium (Diazepam/Diastat) to children suffering epileptic episodes. The CDE has developed regulations (published at 5 CAC §§ 623-627), which contain more stringent standards than other "voluntary" medication administration training and implementation standards, and include requirements to differentiate between different types of seizures, the proper method(s) to administer the medication to the student in question, emergency follow-up procedures, and "techniques and procedures to ensure pupil privacy. Volunteers can only be solicited by electronic notice to **all** staff no more than two times a year for each student. The volunteer must complete the required training before administering emergency anti-seizure medication.

VI. TRAINING/COMPENSATION CONSIDERATIONS

Training volunteers for Medication administration is to be provided by licensed personnel, which in many instances can include school nurses, although may require training by a doctor or specialized physician depending on the circumstances. If a Member's physician or nurse Job Descriptions includes "training" as a primary or secondary job function, recognizing the employee to provide the training should already be well versed in emergency response and proper care considerations, then the process can occur within the District's daily operations.

In terms of "compensation," a view exists that as "volunteer" activities, there is no right to additional compensation unless the employee is performing support services, as requested, outside of his/her normal work day.