

Program Advisory on Administration of Emergency Antiseizure Medication

Related to *California Code of Regulations Title V*, Section 49414.7:
SB 161 (Chapter 560 California Education Code) Emergency Medical Assistance:
Administration of Epilepsy Medication

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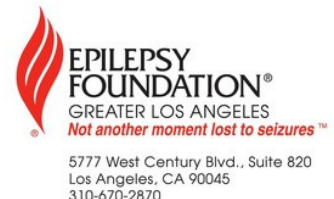
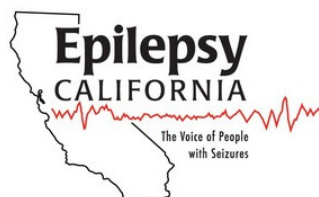
Purpose

This is a program advisory issued pursuant to Education Code Section 49414.7, which provides nonbinding recommendations on administering emergency antiseizure medication¹ to students who suffer from epilepsy. It is intended to provide recommendations to local educational agencies (LEAs) on pertinent issues that have been determined to be important but are outside the scope of regulations. Local education agencies are encouraged to use this information to conform local school policies and procedures to enable students with epilepsy to receive emergency seizure medications safely while attending school. The content of this advisory is based upon Senate Bill 161 (Chapter 560 California Education Code) with recommendations for implementation based on a statewide survey responded to by local educational agencies, parents, doctors and school nurses. The survey was conducted by Epilepsy California through the Epilepsy Foundation of Greater Los Angeles and the Epilepsy Foundation of San Diego County.

Introduction

SB 161 (Chapter 560 California Education Code) deals with the administration of emergency antiseizure medication by trained volunteer nonmedical school personnel to students experiencing an epileptic seizure. Many students with epilepsy are able to participate in the educational system because of the effectiveness of current treatments. However, some students with epilepsy require intervention with an emergency seizure medication, while at school because they are susceptible to prolonged seizures as described by their physician in the student's Seizure Action Plan. These students require access to life saving emergency

¹ Diazepam rectal gel and emergency medications approved by the federal Food and Drug Administration for patients with epilepsy for the management of seizures by persons without the medical credentials.



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medications, such as diazepam rectal gel², because these prolonged seizures can have devastating consequences for children, including brain injury and death³. The overall mortality rate of patients experiencing prolonged seizures is estimated at 20%⁴.

The California legislature enacted Education Code Section 49414.7, which took effect January 1, 2012. The legislature recognizes that whenever possible, emergency anti-seizure medication should be administered by a school nurse or licensed vocational nurse that has been trained in its administration. However, they also acknowledge that more than half of the school districts do not have a credentialed school nurse onsite and that students with epilepsy who suffer from seizures while at school are put at risk. Thus, SB161 (Chapter 560 California Education Code) is an exception to the Nurse Practice Act and permits school districts to elect to participate in this program* which authorizes trained volunteer⁵ nonmedical school personnel, in the absence of a school nurse or other licensed health care professional, to provide emergency medical assistance⁶ the federal Food and Drug Administration (FDA) approved emergency antiseizure medication to students who suffer from seizures while at school and where the administration has been prescribed and described by their doctor in the student's Seizure Action Plan and sanctioned by the student's parent/guardian.

This program advisory offers information pertaining to the implementation and training of the volunteer school personnel who will be providing these services. SB161 (Chapter 560 California Education Code) is intended to assist students in achieving their educational goals.

Laws and Regulations

The Responsibilities of the School District

If a School District, County Offices of Education, or Charter School elects to participate, they must develop a school district plan. This plan shall include, but not be limited to, the following:

1. Identification of existing licensed staff within the district or region who could be trained in the administration of emergency antiseizure medication and could be available to respond to an emergency need to administer emergency antiseizure medication. The school shall consult with the school district or county office of education to obtain this information.
2. Identification of students who may require the administration of emergency antiseizure medication.
3. School district then:

² At the time this advisory was created, the only-FDA approved, at-home medication for the treatment of serial or cluster seizures is Diastat® AcuDial™. Refer to <http://www.diastat.com/about/faq.aspx#What-is-DIASTAT>.

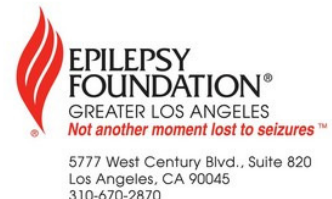
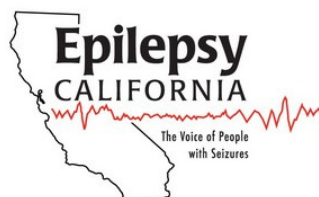
³ Evelyne Peeters. Treatment of Epileptic Seizures as Medical Emergencies: A Prospective Analysis of a Decision Tree for Nonmedically Trained Staff, 9 Seizure 473-479 (2000).

⁴ John Pellock. Management of Acute Seizure Episodes (Pellock Study), 39 Epilepsia S28 (1998).

⁵ The term VOLUNTEER, as it is used throughout this advisory and conforms to the statute, refers to school employees who voluntarily step forward to be trained and participate in this task. They are under the direction of the school and are not volunteers in the usual sense of the word because they are compensated for their time for this task.

⁶ Emergency medical assistance means the administration of an emergency antiseizure medication to a pupil suffering from an epileptic seizure.

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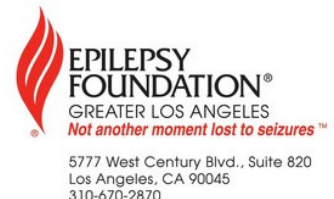
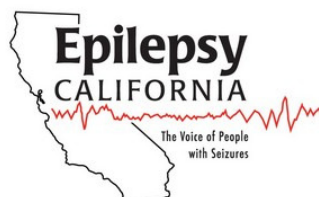
- a. Notifies the parent/guardian that his/her child may qualify for services or accommodations under Section 504 Plan or an Individualized Education Program (“IEP”).
- b. Assists the parent/guardian with the exploration of the options.
- c. Encourages the parent/guardian to adopt that option if it is determined that the child is eligible for a Section 504 Plan or IEP.
- d. Asks the parent/guardian to sign a notice verifying they were given information regarding a Section 504 Plan and that they understand their rights under it.
- e. Considers other options with the parents, if the parent/guardian elects not to have his/her child assessed under Section 504 of the IDEA. In this situation, the school district may work with the parents to create an individualized health plan, seizure action plan, or other appropriate health plan designed to acknowledge and prepare for the child's health care needs in school. The plan for the administration of the emergency antiseizure medication may include the involvement of school employees who volunteer to be trained or a licensed vocational nurse.

The Responsibilities of the Parent/Guardian

If their child has a prescription for emergency antiseizure medication, the parent/guardian’s responsibilities are to:

4. Provide written authorization for a nonmedical school employee to administer emergency antiseizure medication to their child.
5. Consider their right to request a Section 504 Plan or IEP for their child at any time.
6. Notify the school if the student has had emergency antiseizure medication administered within the past four hours on a school day.
7. Provide the school with a written statement from the student’s healthcare provider containing, at a minimum, the following ten items which are also listed in the emergency regulations:
 - a. Student’s Name.
 - b. Name and purpose of prescribed medication.
 - c. Prescribed dosage.
 - d. The length of time the seizure may continue before the administration of Diastat becomes necessary.
 - e. Detailed seizure symptoms - frequency, type, or length of seizures that identify when the administration of the medication becomes necessary.
 - f. Method of administration.
 - g. Frequency with which the medication may be administered.
 - h. Circumstances under which the medication may be administered.
 - i. Potential adverse responses and mitigation actions; including when to call emergency services.
 - j. Protocol for observation after a seizure including, but not limited to, whether the pupil should rest in the school office, whether the pupil may return to class, and the length of time the pupil should be under direct observation.

School District Solicitation of Volunteers



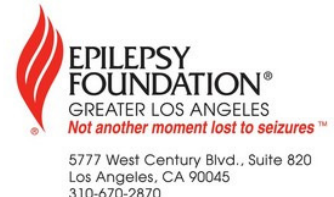
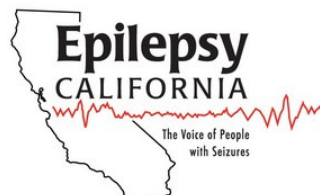
8. School Districts are authorized to solicit volunteers⁷ by electronic notice to employees; and this is the only means by which they can solicit volunteers. The electronic notice will be sent no more than twice per year, per student to all school personnel/staff that states the following information in bold print:
 - a. The notice is a request for staff who are willing to volunteer to be trained to administer emergency antiseizure medication to a student experiencing a severe epileptic seizure, in the absence of a school nurse.
 - b. emergency antiseizure medication is an FDA-approved, predosed, rectally administered gel that reduces the severity of epileptic seizures.
 - c. A volunteer will receive training from a licensed health professional regarding the administration of emergency antiseizure medication.
 - d. Any agreement by an employee to administer emergency antiseizure medication is voluntary, and no employee of the school or district shall directly or indirectly use or attempt to use his or her authority or influence for the purpose of intimidating, threatening, coercing, or attempting to intimidate, threaten, or coerce, any staff member who does not choose to volunteer.
 - e. A description of the volunteer rescission timelines.
 - i. Employees who volunteer may rescind their offer to administer emergency antiseizure medication up to three days after completion of the training. After that time, they may rescind their offer to volunteer with a two-week notice, or until a new individual health plan or Section 504 plan has been developed for the student, whichever is shorter.
9. A school district that elects to allow volunteers to administer emergency antiseizure medication shall compensate a volunteer, in accordance with that employee volunteer's pay scale pursuant to Section 45128, when the administration of emergency antiseizure medication and subsequent monitoring of a student requires a volunteer to work beyond his/her normally scheduled hours.

The Requirements for the Training

10. Training can be provided by: a physician or surgeon, a physician assistant, a credentialed school nurse, a registered nurse or a certified public health nurse.
11. Training shall be provided in accordance with the manufacturer's instructions, the student's healthcare provider's instructions, and guidelines established pursuant to this section shall be deemed adequate training for purposes of this section.
12. Training shall include, but not be limited to, all of the following:
 - a. Recognition and treatment of different types of seizures.
 - b. Administration of emergency antiseizure medication.
 - c. Record-keeping and record retention.
 - d. Techniques and procedures to ensure student privacy.
 - e. Basic emergency follow-up procedures, including, but not limited to:

⁷ The term VOLUNTEER, as it is used throughout this advisory and conforms to the statute, refers to school employees who voluntarily step forward to be trained and participate in this task. They are under the direction of the school and are not volunteers in the usual sense of the word because they are compensated for their time for this task.

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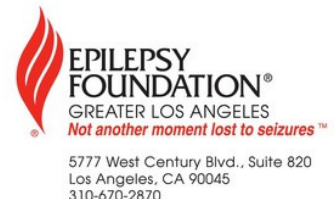
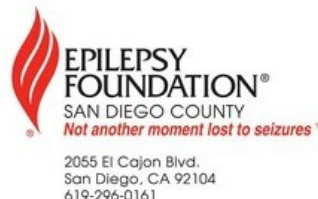
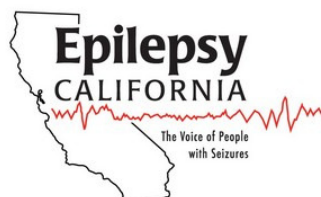


- i. A school employee shall notify the credentialed school nurse assigned to the school district if he/she administers emergency antiseizure medication pursuant to this section.
 - ii. If a credentialed school nurse is not assigned to the school district, the school employee shall notify the superintendent of the school district, or his/her designee, if he or she administers emergency antiseizure medication pursuant to this section.
 - iii. A requirement for the school administrator or another school staff member to call 911 and to contact the student's parent/guardian. Calling 911 shall not require a student to be transported to an emergency room.
 - iv. See the student's Seizure Action Plan for additional follow-up procedures.
 - v. A school shall retain all records relating to the administration of emergency antiseizure medication while a student is under the supervision of school staff.
- f. Volunteer Responsibilities
- i. Agreement is voluntary.
 - ii. Must complete training.
 - iii. Will not administer until training is complete.
 - iv. May rescind offer up to three days after completing the training.
 - v. After that time, they may rescind their offer to volunteer with a two-week notice or following the development of a new individual health plan or Section 504 plan, whichever is shorter.
 - vi. Will be indemnified and defended by school district.
 - vii. Will be compensated for work beyond normally scheduled hours.
- g. Retraining must be done every two (2) years, if needed.
13. The volunteer shall not administer emergency antiseizure medication until completion of the training program and documentation of the completion is recorded in his or her personnel file.

The Volunteer Liability

14. The School District must defend and indemnify the volunteer for any civil liability.
15. If there are no volunteers, then the school or charter school shall renotify the pupil's parent/guardian of the option to be assessed for services and accommodations guaranteed under Section 504 of the federal Rehabilitation Act of 1973 and the federal Individuals with Disabilities Education Act (20 U.S.C. Sec. 1400 et seq.).
16. The student's parent/guardian shall provide all materials including doctor generated seizure action plan that are necessary to administer emergency antiseizure medication. A school shall not be responsible for providing any of the necessary materials.

* The information contained herein was taken from Section 49414.7 of the Education Code
http://www.leginfo.ca.gov/pub/11-12/bill/sen/sb_0151-0200/sb_161_bill_20110202_introduced.html



Frequently Asked Questions

Epilepsy California through the Epilepsy Foundation of Greater Los Angeles and the Epilepsy Foundation of San Diego County conducted a survey on Epilepsy and Seizure Disorders in School. The survey was sent out November 2012 and ended January 2013. Based on the results from the survey, you will find the following frequently asked questions.

1) Implementation of SB161 (Chapter 560) – when credentialed school nurses remain unclear on whom to adhere when the Board of Registered Nursing and California law appear to contradict one another on this issue.

A: SB161 (Chapter 560) is an exception to the Nurse Practice Act. If an IEP team or 540 Plan chooses this option to assist a child with epilepsy to access their medication, they will not be in violation of the Nurse Practice Act. The law specifically states, “Notwithstanding Sections 2052 and 2732 of the Business and Professions Code, in the absence of a credentialed school nurse or other licensed nurse onsite at the school, a school district may provide school employees with voluntary emergency medical training to provide emergency medical assistance to pupils with epilepsy suffering from seizures”⁸.

2) Would a registered nurse or school nurse violate the Nurse Practice Act if he or she trains or supervises a school employee volunteer (hereafter volunteer) to administer emergency antiseizure medication?

A: SB 161 is an exception to the Nurse Practice Act. No, a registered nurse or school nurse would not be in violation of the Nurse Practices Act if he or she trains a volunteer school employee to administer Diastat⁹.

3) What is Diastat® AcuDia™?

A: Diastat® AcuDia™ is a rectal gel form of diazepam approved by the FDA for use by family members and non-medical caregivers to stop seizure activity by acting on brain cell interactions that inhibit the seizure discharges. Diastat® is rapidly absorbed from the lining of the rectum and quickly achieves therapeutic levels in the serum. It can be used in children and adults. The terms Diastat® and Diastat® AcuDia™ refer to the same medicine. Diastat® comes prepackaged in special applicators or syringes that are used to give the medicine rectally. The AcuDia™ delivery system allows the pharmacist to set the applicators to deliver the prescribed dose. Diastat® does not need to be refrigerated, but it is important to store it in a safe place where it will not get hot or cold¹⁰.

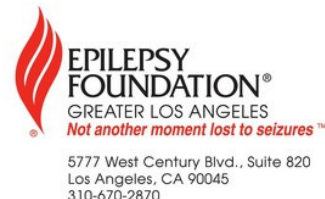
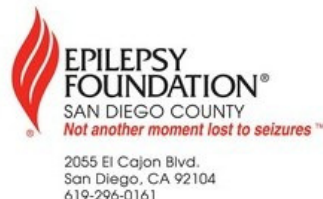
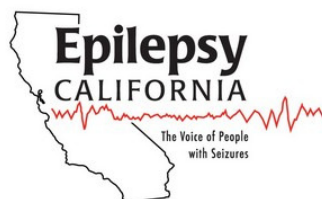
4) Is the school liable for using volunteer school employees to administer emergency antiseizure medication, in the absence of a school nurse?

⁸ See Section 2, 49414.7 (b) http://www.leginfo.ca.gov/pub/11-12/bill/sen/sb_0151-0200/sb_161_bill_20110202_introduced.html and <http://www.cde.ca.gov/re/lr/r/r/documents/epilepsyfsr.doc> and http://www.cde.ca.gov/re/lr/r/r/documents/addendumfsr_000.doc

⁹ See Legislative Counsel Review dated May 18, 2012 http://www.shastacoe.org/uploaded/Dept/selpa/SELPA_Resources/Chapter_18_Packet.pdf

¹⁰ Diastat <http://www.diastat.com/>

Provided courtesy of



A: All state and local school agencies are required to carry Risk Management Insurance which addresses potential liability as a result of any program or service rendered in their school district. Education Code Section 35208 requires districts to secure liability insurance for themselves, board members and employees for personal injury, property damage, and death (or they can provide protection from their own funds). Employees are indemnified when they act within the scope of their employment. An employee is covered by a district's liability insurance if they are acting within the scope of their employment at the time of any incident¹¹.

5) When sending request notices for volunteer staff - Is there an example or a form that school districts may follow to ensure compliance/requirements with the law.

A: In the guidelines/regulations and also listed in the SB161 Fact Sheet, are the requirements set forth for the electronic notice that is to be sent to school personnel. There is also an example of a pre-written script that you can follow to solicit volunteers located in the Orange County Department of Education's Antiseizure Medication Guide¹².

6) When staff is unwilling to be trained and resistant to providing the medication, what can be done?

A: There is no mandatory language in the law that states all school staff has to be trained. The law specifically states that: "Any agreement by an employee to administer emergency antiseizure medication is voluntary, and no employee of the school or district shall directly or indirectly use or attempt to use his or her authority or influence for the purpose of intimidating, threatening, coercing, or attempting to intimidate, threaten, or coerce, any staff member who does not choose to volunteer. Employees who volunteer may rescind their offer to administer emergency anti-seizure medication up to three days after completion of the training. After that time, they may rescind their offer to volunteer with a two-week notice, or until a new individual health plan or Section 504 plan has been developed for the student, whichever is shorter"¹³.

7) When there are no volunteers what is the next step?

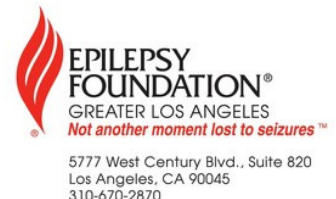
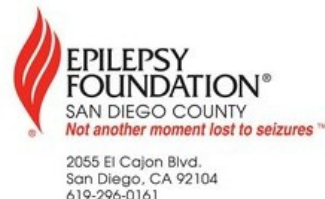
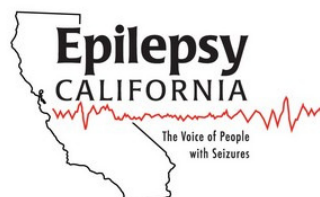
A: If there are no school employees who volunteer to be trained to administer emergency antiseizure medication then the school or charter school shall renotify the student's parent/guardian of the option to be assessed for services and accommodations guaranteed under Section 504 of the federal Rehabilitation Act of 1973 and the federal Individuals with Disabilities Education Act (20 U.S.C. Sec. 1400 et seq.).

8) How to address child's privacy when administration of Diastat® AcuDial™ is needed at school.

¹¹ See California Education Code Section 35208 <http://www.leginfo.ca.gov/cgi-bin/displaycode?section=edc&group=35001-36000&file=35200-35214>

¹² Orange County Department of Education Antseizure Medication Guide <http://www.ocde.us/LegalServices/Documents/Antiseizure%20Medication%20Guide%20Final.pdf>

¹³ See Section 2, 49414.7 (g) http://www.leginfo.ca.gov/pub/11-12/bill/sen/sb_0151-0200/sb_161_bill_20110202_introduced.html and <http://www.cde.ca.gov/ls/he/hn/sb161faq.asp>



A: A blanket, sheet or towel can be used to provide privacy during the administration of Diastat®. These should be placed in a predetermined location on the school's campus where the student's medication is stored. Please refer to the student's individualized health care plan or seizure action plan.

9) What do you do when parents request emergency antiseizure medication be administered to their child IMMEDIATELY for any seizure activity?

A: Remind parents that you, as the school designated provider, are to follow the physician's instructions as instructed in the individualized health care plan which details when the administration of emergency antiseizure medication is to be given.

10) Some nurses expressed concern that many physicians are prescribing Diastat® "off label" for "break through" seizures.

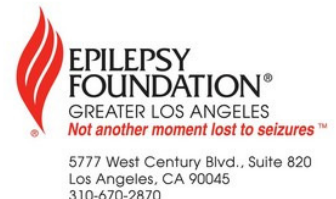
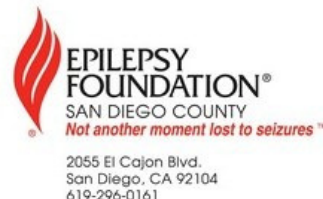
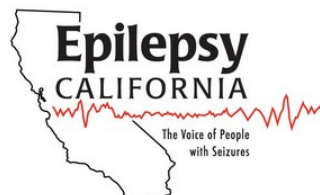
A: This is not addressed in SB161. Refer to the student's individualized health care plan or seizure action plan and contact the student's parent for further clarification.

Appendices - Resources

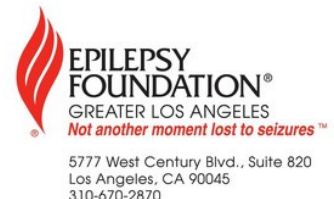
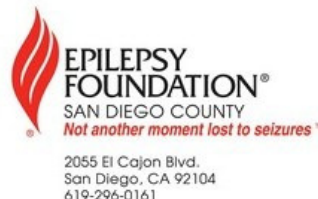
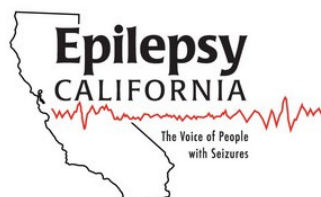
I. Education/ Med Laws

- a. California Department of Education , SB161 (Chapter 560)
<http://www.cde.ca.gov/re/lr/rr/adminofepilepsymed.asp>
- b. Title 5 California Code of Regulations, Division 1, Chapter 2, Subchapter 3, Article 4.5, Administration of Emergency Anti-Seizure Medication by Trained Volunteer Nonmedical School Personnel, section 620 et seq.
http://weblinks.westlaw.com/result/default.aspx?db=CA-ADC&docname=PRT%28I6FD7B3407F9411E1A84CC02653E20F9E%29+%26+BEG-DATE%28%3C%3D03%2F06%2F2013%29+%26+END-DATE%28%3E%3D03%2F06%2F2013%29+%25+CI%28REFS+%28DISP+%2F2+TABLE%29+%28MISC+%2F2+TABLE%29%29&findtype=&fn= top&jh=Article+4.5.+Administration+of+Emergency+Anti-Seizure+Medication+by+Trained+Volunteer+Nonmedical+School+Personnel&jl=1&jo=5%2BCA%2BADDC%2B%25c2%25a7%2B620&mt=Westlaw&ordoc=I7BD459002AD911E29A33EC7A88AF7533&rt=CLID_FQRLT970810341263&rp=%2FSearch%2Fdefault.wl&rs=GVT1.0&service=Find&sp=CCR-1000&sr=SB&sv=Split&vr=2.0
- c. SB 161 - Regulations Link - http://www.leginfo.ca.gov/pub/11-12/bill/sen/sb_0151-0200/sb_161_bill_20111007_chaptered.html
- d. Related Laws
 - i. IDEA <http://idea.ed.gov/>
 - ii. ADA <http://www.ada.gov/>

Provided courtesy of



- iii. 504 Plan – Guide from American Nurses Association/California
http://www.anacalifornia.org/diastatissues/QG_Educator_504_102804.pdf
 - e. Association of California School Administrators www.acsa.org/
 - f. California School Nurses Organization <http://www.csno.org/>
- II. **Diastat Standards**
 - a. CDE: FAQ Legal Advisory <http://www.cde.ca.gov/ls/he/hn/sb161faq.asp>
 - b. EC/ CSNO: Implementation Advisory
- III. **Diastat Training**
 - a. Package: Cover letter, FAQ, Video Training
 - b. Visual guide to Diastat administration: <http://applications.spectrum-health.org/Education/Home/Download?filename=x12263.pdf>
 - c. The Epilepsy Foundation and National Association of School Nurses (NASN) are co-providing a new school nurse continuing education program titled “Managing Students with Seizures: A Training for School Nurses.” NASN involvement insures that objectives and content are specifically designed to meet the real and immediate needs of school nurses.
<https://www.nasn.org/ContinuingEducation/LiveContinuingEducationPrograms/ManagingStudentsWithSeizures>
 - d. Epilepsy Foundation of America training guide for EMS
http://www.epilepsyfoundation.org/resources/upload/604EMTTrainers_Guide_LoRes.pdf
 - e. Seizure Recognition, First Aid and Diastat Training Video
- IV. **Epilepsy**
 - a. Epilepsy Foundation www.epilepsyfoundation.org/ and www.epilepsy.com
 - b. Epilepsy Foundation Greater Los Angeles www.endepilepsy.org
 - c. Epilepsy Foundation of San Diego County www.epilepsysandiego.org
 - d. Centers for Disease and Control <http://www.cdc.gov/epilepsy>
- V. **Other Resources**
 - a. California Department of Education links
<http://www.cde.ca.gov/ls/he/hn/epilepsymedadmin.asp>
 - b. Shasta County Department of Education Administration of Emergency Anti-Seizure Medication, under SELPA Local Plan, Policies & Procedures, etc. – Chapter 18 <http://www.shastacoe.org/page.cfm?p=3674>
 - c. Orange County Department of Education’s Antiseizure Medication Guide dated January 2013
<http://www.ocde.us/LegalServices/Documents/Antiseizure%20Medication%20Guide%20Final.pdf>
 - d. Orange County Department of Education
<http://www.ocde.us/Health/Documents/SPHCS/Diastat.pdf>
 - e. Centers for Disease and Control <http://www.cdc.gov/epilepsy>
 - f. Parent Resource – Resource Center



- i. Training Preschool and K-12 Educators and Parent Leaders in California and Serving Program Improvement Schools and Districts Across the Nation <http://parent.sdsu.edu/>
- ii. Special Education Family Centers <http://www.parentcenternetwork.org/parentcenterlisting.html>

VI. Media Resources

- a. Diastat - Recognizing Seizures in School – How to Help Teachers in Your School <http://www.diastat.com/hcps/resources/reprint-library/school.aspx>
- b. Diastat - Back-to-School Guide for Teachers and Parents <http://www.diastat.com/hcps/resources/reprint-library/back-to-school-teachers.aspx>
- c. Diastat – Professionals Share Their Experience with Diastat <http://www.diastat.com/hcps/resources/interviews.aspx>
- d. Diastat – Nurses’ Resource Center <http://www.diastat.com/hcps/nurses.aspx>
- e. Short video on the benefits of Diastat: <http://www.bing.com/videos/search?q=diastat&view=detail&mid=3A91303754DDF3B8F9633A91303754DDF3B8F963&first=0&FORM=NVPFVR>
Low quality video demonstrating Diastat administration (but it covers key points): http://www.publichealthtools.com/videos/?task=viewvideo&video_id=19

Glossary of Terms

Emergency antiseizure medication means diazepam rectal gel and emergency medications approved by the federal Food and Drug Administration for patients with epilepsy for the management of seizures by persons without the medical credentials listed in paragraph (5) of subdivision (m).

Emergency medical assistance means the administration of an emergency antiseizure medication to a pupil suffering from an epileptic seizure

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