Emerging School Health Issues
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Key Topics
- School Health Mandates
- Role of School Physician and School Nurse
- Recently Enacted Legislation / Proposed Legislation
- Immunizations & Exemptions
- FERPA & HIPAA
- Ability to Clarify Letters From Doctors
- Home Instruction for Students Out Sick
- Board Sanctioned Activities
- Section 504 – Mental Illness & Chronic vs. Acute Illness
- Field Trips
- Addressing Medical Needs of Faculty
- PPE Sports Forms
- Vaping
- Exclusions for Student Safety
Key Elements of Required District Policy and Procedures

- See NJDOE Summary of School Health Mandates - https://www.state.nj.us/education/students/safety/health/School%20Health%20Mandates%202019.pdf
- Review of immunization records
- Administration of medication, self-administration
- Review of DNR orders
- Provision of emergency health services
- Asthma treatment
- Handling of blood and bodily fluids
- Provision of nursing services to nonpublic schools
- Development of individualized healthcare plan and individualized emergency healthcare plan
- Management of food allergies
- Opioid antidotes in schools

Role of School Nurse

- Works under the direction of school physician and CSA
- Must receive training in airway management and use of nebulizers and inhalers
- Carries out written orders of the medical home and standing orders of the school physician
- Conducts health screenings
- Maintains student health records
- Recommends non-admittance if no immunization records (subject to exceptions, grace period)
- Recommends exclusion of students if medically necessary due to communicable disease
- Administers, and directs and supervises emergency administration of medication and training of delegates

Role of School Nurse (cont’d)

- Directs and supervises others delegated to perform nursing tasks
- Provides classroom instruction in health ed
- Summarizes and transmits health info to child study team
- Writes and updates, annually, the IHP and IEHP
- Assists in developing emergency procedures
- Provides training for staff on communicable disease and other health concerns
- Reviews health history update questionnaires and shares with athletic trainer for review
- Provides other nursing services consistent with certification and license
- May provide emergency care consistent with training to school staff, NOT required to and should not provide routine medical care to staff.
Emergency Administration of Medication

• N.J.S.A. 18A:40-12.5 – Epinephrine administration policy
• N.J.S.A. 18A:40-12.7 – Requirement to have and maintain for the use of pupils at least one nebulizer in the office of the school nurse or a similar accessible location
• N.J.S.A. 18A:40-41a – AED accessibility
  • See NJDOE FAQ:
    https://www.state.nj.us/education/students/safety/health/legislation/JanetsLawFAQ.pdf

NJ School Allergy Cases

• See NJDOE Guidelines for Addressing Life Threatening Allergies
  • https://www.state.nj.us/education/students/safety/health/legislation/JanetsLawFAQ.pdf

• October 2018 - Bedminster School District Sued For Barring Peanut-Sniffing Dog In School

• May 2019 - School (Jackson) Didn’t Deal With Kid’s Allergies, Now They Have To Pay $400K Lawsuit

Responding to Biting Incidents in Schools

• See N.J.S.A. 34:6A-25 – Blood Borne Pathogens
  • https://www.state.nj.us/health/workplacehealthandsafety/peosh/peosh-health-standards/bbn.shtml

• Special Needs Student in Elizabeth Repeatedly Attacked by Classmate – https://newyork.cbslocal.com/2019/09/06/special-needs-student-attacked/

• Iowa City Schools ‘failed’ to take steps to prevent workplace violence (aide and teachers bitten by students)
  • https://www.kcrg.com/content/news/OSHA-Iowa-City-Schools-failed-to-take-steps-to-prevent-workplace-violence-510678801.html

• teachers, paraeducators, and/or substitutes were injured after they were kicked, punched, pushed, and even bitten in the classroom, playground, and school bus.
Immunizations

- A student coming to New Jersey from another state or country has 30 days to provide documentation of required immunizations and must be allowed to enroll in school. Doe and DoH rules on allowing student to attend class while awaiting for immunization records.
- Homeless child cannot be barred from enrolling and attending school while getting immunizations.
- There is a religious exemption for immunization.

Note: The SD Homeless Liaison can help obtain these records.

http://www.state.nj.us/education/students/homeless/liaison.htm

What does FERPA say?

- FERPA is a funding law.
- FERPA protects the privacy of students’ education records.
- FERPA applies to all educational agencies and institutions that receive USDOE funds.

HIPAA privacy rule

- HIPAA “privacy rule”—prohibits covered entities from disclosing protected health information to third parties without prior authorization from the subject of the information.
Does HIPAA privacy apply to elementary and secondary schools?

- Generally, no
- HIPAA applies to health plans, health care clearinghouses, and health care providers that transmit health information electronically in connection with certain transactions; rarely are schools in those categories
- Schools maintain health information in student health records that are "education records" under FERPA and, thus, not protected health information under HIPAA

Sources:
- HHS HIPAA website, http://www.hhs.gov/ocr/privacy/

Letters From Doctors

- If letter from doctor is directed to the school, FERPA permits school nurse or school physician to follow up with doctor directly to seek clarification regarding a doctor’s note
- If letter is addressed to "whom it may concern" parent permission required. However, the school could condition excusing the student absence on first getting any necessary clarification from the doctor.
- Clarification is often needed for open-ended or otherwise vague notes
- See local board policy for determining what notes will be accepted for medical excuse, busing, etc.

FERPA—Q & A on doctor notes

- Q. If a school wants to contact a child’s doctor about an inaccuracy on an excuse note, do we need any special permission or may we contact the doctor directly?
- A. Under FERPA, the 2008 regulations changed the definition of "disclosure" to permit a school to contact the stated source of a record (such as a doctor’s note) for verification purposes. This is not considered a disclosure and, therefore, does not violate FERPA. In a situation in which there is no doctor’s excuse note where a school official wishes to call a student’s doctor and discuss the student’s medication, restrictions, etc., the parent must provide written consent before the school official calls the doctor and discloses information from the student’s education records.
Home Instruction

- NJAC 6A:16-10.1c
- Requests must document:
  - Projected term of confinement
  - 10 consecutive or 20 cumulative school days
  - "The written determination from the pupil's physician may be forwarded to the school physician who shall verify the need for home instruction."
  - School physician must respond to request within 5 school days and instruction must start within 5 school days of school physician approval
  - Instruction shall be for "the number of days and length of time sufficient to continue the student's academic progress and dependent upon the student's ability to participate."
  - May include online instruction
  - Must be a certified teacher

PPE Sports / Intramurals

- PA's may now sign PPE forms
- PPE is due 365 days before first practice
- Epi Pens is replaced by the word epinephrine auto injectors
- Nurse may add missing information on form if it is available from school screenings within 365 days
- The parent must sign the PPE History form and insert PE date at top of the page

RECENT LEGISLATION
Recent Legislation – July 19, 2019

  - August 27, 2019 Memo from NJ Department of Children and Families (in Dropbox folder)
  - Provides link for schools to order free poster sized prints and 8.5 x 11" flyers
  - Link to DCF training module
  - Memo includes a reminder of information that should be provided by the caller

Recent Legislation – July 19, 2019

- P.L. 2019, c. 172 – New Jersey becomes the 34th state to join the Nurse Licensure Compact. Implementation date to be determined.
- P.L. 2019, c. 185 – Requires school districts to incorporate age-appropriate sexual abuse and assault awareness and prevention education in grades preschool through 12 as part of New Jersey Student Learning Standards in Comprehensive Health and Physical Education.

Recent Legislation on Self-Administration

- P.L. 2019, c. 118 – 5/10/19:
  - Permits self-administration of hydrocortisone sodium succinate by students for adrenal insufficiency
  - Requires that SD’s and nonpublic schools establish policy for emergency administration of medication
  - Effective for the 2019-20 school year
New Law on Opioid Antidotes in Schools

- P.L. 2018, Chapter 106 – Requires Opioid Antidotes in Schools and Permits Emergency Administration by School Nurse or Trained Employee
- NJDOE Guidelines Required
- Board policy required for emergency administration of Opioid Antidote to students, staff or others.
- Requires all Schools with any of grades 9 – 12 to obtain a standing order for these antidotes and to maintain a supply in a secure, unlocked, easily accessible location
- Board determines quantities and types of antidotes in consultation with DOE and DOH

June 4, 2019 – NJDOE Guidelines for Opioid Antidote Administration

- The guidelines provide recommendations and clarification on the following:
  - The location and maintenance of the opioid antidote supply
  - Training requirements for school staff who will be involved in the administration of the opioid antidote
  - Suggested procedures to follow regarding the administration of the opioid antidote
  - Protocols for the handling of any adverse events
  - Consideration of post-administration procedures and possible intersections within existing policy
  - Protections and limits of liability of school staff who are trained to administer opioid antidotes
- The guidelines also include frequently asked questions and a compilation of resources to support schools in obtaining opioid antidotes or training on opioid antidote administration.
- Please direct questions to healthyschools@doe.nj.gov

Recent Legislation - 2018

- P.L. 2018, c.34 - Requires firearms seizure when certain health care professional determines patient poses threat of harm to self or others. Duty to warn extends to "[a]ny person who is licensed in the State of New Jersey to practice psychology, psychiatry, medicine, nursing, clinical social work, or marriage and family therapy."
Electronic Nicotine Delivery Systems (Vaping)

- Nearly an 80% increase at high school level and 50% increase at middle school level.
- Latest data on NJ cases of confirmed and probable lung illness linked to vaping - [https://www.nj.gov/health/fhs/tobacco/vaping/](https://www.nj.gov/health/fhs/tobacco/vaping/)
- As of October 8, 2019, CDC reports 1,299 lung injury cases associated with the use of e-cigarette, or vaping, products have been reported to CDC from 49 states, the District of Columbia, and 1 U.S. territory.
- Twenty-six deaths have been confirmed in 21 states.
- Role of School Nurse – ensure student safety, recognize signs student may be under the influence.
- District protocol should always involve referring student to the nurse if student is found in possession of ENDS (vape).
- See Tobacco Free for a Health New Jersey - [https://www.tobaccofreenj.com/](https://www.tobaccofreenj.com/)

Symptoms of Lung Illness Linked to Vaping

- Patients in this investigation have reported symptoms such as:
  - cough, shortness of breath, or chest pain
  - nausea, vomiting, abdominal pain, or diarrhea
  - fatigue, fever, or weight loss
- Some patients have reported that their symptoms developed over a few days, while others have reported that their symptoms developed over several weeks. A lung infection does not appear to be causing the symptoms.
- If you have questions about CDC’s investigation into the lung injuries associated with use of electronic cigarette, or vaping, products, contact CDC-INFO or call 1-800-232-4636.

NJDOE Memo – July 5, 2019

- Important Message Regarding Teen Vaping and E-Cigarette Usage
- Contains links to resources to assist SD in their efforts regarding these issues
- [https://homeroom5.doe.state.nj.us/broadcasts/2019/Jul/05/20323/ImportantMessage%20Regarding%20Vaping%20and%20E-Cigarette%20Usage.pdf](https://homeroom5.doe.state.nj.us/broadcasts/2019/Jul/05/20323/ImportantMessage%20Regarding%20Vaping%20and%20E-Cigarette%20Usage.pdf)
Tenure Charges for Conduct unbecoming-school nurse

- Tenured school nurse dismissed for conduct unbecoming
- Nurse failed to render appropriate treatment to 6th grade student with a foot injury from gym, which took months to heal
- Nurse’s recordkeeping was inadequate
- Arbitrator credited parent complaint, and considered examples of past unrelated incidents of nurse’s behavior
- Nurse had not been disciplined in any way in the past

Tenure Charges for Incapacity – School Nurse

- Cautionary tale regarding duty of care for school nurse, potential for tenure charges for breaching duty
- Series of incidents led to suspension on 2/19/15
  - 11/5/14 – improper response to student with a seizure (failed to consult teacher, turned student over to another nurse, failed to discuss seizure protocol with teacher)
  - 11/5/14 – improper response to unresponsive, gagging student (waited for a class to pass before approaching; no sense of urgency, failed to consult teacher, pulled student to her feet and walked to nurse office)
  - 11/24/14 – audit by county found various deficiencies in immunization records
  - 11/24/15 – Two administrators summoned to Costello’s office, found 3rd grade student sitting at nurse’s desk crying, teacher sitting behind the desk, then Costello got up and yelled “I am tired of this. I can’t take this anymore.”
- Substitute nurse found office in disarray and discovered other deficiencies
- Board approved doctor conducted psychological exam, determined not fit for duty, diagnosed with generalized anxiety disorder, major depression, OCD, avoidant and schizoid personality disorder
- Costello experts contested parts of diagnosis and extent of impact
- Arbitrator ultimately held Costello unable to perform duties of school nurse, upheld tenure charges for incapacity. Appellate Division upheld arbitrator’s decision.

Conclusion

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