

MEDICALADVISORS, INC

TECHNICAL NETWORK CONSULTING SERVICE®

STUDENTS WITH DISABILITIES

THE EDUCATIONAL AND MEDICAL RIGHTS OF STUDENTS WITH DISABILITIES

Nurse from Pennsylvania

Kevin is a 15 year old student about to enter a large high school. Kevin has an IEP (Individual Education Plan) developed by a team of teachers and his parents to meet his special education needs in the classroom – you see, Kevin has Down’s Syndrome. As part of his IEP, he has a 1:1 classroom aide with him, sometimes referred to as an UAP, unlicensed assistive personnel.

Kevin was diagnosed at a young age, with insulin-dependent diabetes. He has a health care plan and medical orders from his pediatric endocrinologist who has managed his diabetes since his diagnosis. The physician’s orders include that Kevin can and should test his blood sugar in the classroom. This involves a self-contained lancet to obtain miniscule blood drop and the glucometer and strips that read the amount of sugar (glucose) in the blood. Kevin knows when to test his blood sugar and can test in less than one minute with demonstrated skill that I observed; however, he needs “assistance” interpreting the resulting number. (i.e. blood sugar 70mg/dL will need a quick sugar snack or blood sugar 300mg/dL drink water). The National Association of School Nurses (NASN) also supports classroom testing.

The classroom provides for the law as:

1. The least restrictive environment (classroom)
2. Minimal disruption (class desk, or back of room)
3. Student will have better/more stable blood glucose levels with immediate response in class vs. travel to health room – (there is a lot of medical literature examining the positive medical benefits to the patient for early response to blood sugar levels).
4. Student is out of classroom less which benefits his education

The school district to date has not permitted classroom testing for Kevin and has required him to go to the nurse in the health room for testing. The school district claims that Kevin is not competent to test his own blood sugar without the direct “supervision” of a nurse.

As a certified school nurse in Pennsylvania with 25 years nursing experience, I was interested in helping this family meet both educational and health goals for Kevin. In order to present my testimony at the hearing, I needed to do a lot of research on both the federal and individual state education and nursing laws and relate them to best management of diabetes in the school-the Individual Health Plan for Kevin.

Traveling a long distance to the health room with a low blood sugar may result in fatigue, uncoordination progressing to seizure or even coma. Also research shows that a blood sugar low of 65 mg/dL even when corrected on-the-spot can take 40 to 90 minutes for normal cognitive function to return (concentration, memory, eye-hand coordination). Diabetes (May 2006). On-the-spot monitoring and managing blood sugar levels can have many beneficial long term health benefits that were brought up during testimony.

The right of participation in regular education programs is protected by federal laws of all students with disabilities, including physical and mental conditions. Three federal laws for this inclusion include:

1. IDEA- Individuals with Disabilities Education Improvement Act of 2004.

Students with disabilities have the right to a free and appropriate education in the least restrictive environment. Kevin has an IEP, Individual Education Plan to address his developmental, physical and language delays.

2. ADA – Americans with Disabilities Act of 1990.

3. Section 504 of the Rehabilitation Act of 1973.

Insures that disabled students will have the same access to educational opportunities as their non-disabled peers and supports them in achieving positive health and educational outcomes (NASN, 2005). Again, Kevin is not only missing valuable class time by going to the nurse, it is also not in his best health interest to wait to monitor and correct his blood sugars.

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There are numerous experts who are more than willing to provide testimony for medical malpractice and personal injury litigation cases. Finding the right one is crucial to the strength of your particular case.

Since 1983, Medical Advisors has assisted in the selection of expert witnesses in several thousand cases. We have provided medical opinions and testimony which have resulted in competent preparation and in-court support for cases involving medical malpractice, hospital negligence, personal injury, workers' compensation and product liability.

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State education and health laws vary widely from state to state. They can include mandates such as teacher to pupil ratios, student to support specialist ratios (school nurses, psychologists), immunizations requirements, and bus transportation requirements. Individual state boards of nursing govern nurse practice act that defines the scope and standards of nursing practice. New Jersey Task Force on Diabetes in the Schools developed guidelines that state that children with diabetes attending public schools should have an Individual Health-Care Plan (IHP), which includes an emergency health-care plan. The school nurse should be involved in developing the IHP, since the nurse will serve as the case manager who establishes the school treatment and emergency plans, coordinates the nursing care, and educates the school staff in monitoring and treatment of symptoms. The school nurse, under the guidelines, is responsible for consulting and coordinating with the student's parents and health-care provider to establish a safe, therapeutic environment. The guidelines specifically address blood sugar (glucose) testing in the school. The report states:

"Current technology is such that blood glucose is a minor invasive procedure. The values obtained from such testing are used to design and evaluate the diabetes treatment plan. The frequency of routine testing is determined by the student's health care team and may vary from student to student. Unscheduled or non-routine blood glucose tests must be done on an as-needed basis for students with diabetes who are suspected to be hypoglycemic (have a low blood glucose level) or hyperglycemic (have an elevated blood glucose level).

The task force recommends that students be permitted to test blood glucose in school as per their IHP. For students requiring supervision, the blood glucose test should be performed in the nurse's office and traditional lancets are suitable, according to the guidelines. For students who are deemed sufficiently responsible, mature, and knowledgeable to perform tests in the classroom, the task force recommends using a non-reusable lancet.

Underlined above is the sticking point with the school district. Their position is that Kevin needs nursing "supervision" to test in the classroom. Our position is that Kevin CAN independently test his blood sugars - per his physician, parents and my observation - and his aide is NOT performing a nursing function by interpreting the resulting blood sugar number and responding as per the Individual Health Plan originally developed by the nurse, physician and parents. The aide is just "assisting" Kevin and indeed helping him become more independent with this critical life skill.

Increasingly today, students with complex developmental, physical and emotional conditions are mainstreamed in regular classrooms per their IEP. As federal and state laws may conflict with health concerns, I believe more "school cases" of student's rights to a fair and appropriate education in the least restrictive environment will be challenged.

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