

*Children,
Families &
Learning*

April 8, 2003

Cecelia DePlessis Erickson
School Nurses Association of Minnesota
4106 Upton Avenue South
Minneapolis, MN 55410

Dear Ms. Erickson:

The State Director of Special Education forwarded your letter of October 2, 2002 to me for consideration and response. In your letter you raised a question regarding "nursing services". Specifically:

"... nursing services addressing individual medical needs specified in one or more IEPs are eligible for special education funding' and that if deemed appropriate, these services may be given by nursing personnel who are not licensed school nurses. It is the State Nurses Association of Minnesota's (SNOM) understanding that a nurse who is not Minnesota Department of Children, Families & Learning (CFL) licensed can only be claimed under function #4 of the time study (instruction or related and support services as outlined in an IEP).

Since some school districts hire non-CFL licensed nurses, SNOM members would like clarification on whether these nurses are eligible to claim any time under other section of the time study worksheet besides function #4. In some cases, certain functions would not be in the scope of practice for certain nursing personnel. For example, a Licensed Practical Nurse (LPN) cannot conduct a nursing assessment. That would need to be done by a Registered Nurse (RN)."

The basic questions of the School Nurses Organization of Minnesota appear to be:

- What licensure or certification is required for the evaluation procedures needed to determine eligibility or re-eligibility for special education services, and
- What licensure or certification is required for direct services to students with disabilities?

Applicable Federal and State Statutes and Regulations:

- (a) Every school board must provide services to promote the health of its pupils.

(b) The board of a district with 1,000 pupils or more in average daily membership in early childhood, family education, preschool handicapped, elementary and secondary programs must comply with the requirements of this paragraph. It may use one or a combination of the following methods:

1. Employ personnel, including at least one full-time equivalent licensed school nurse, or continue to employ a registered nurse not yet certified as a public health nurse, as defined in section 145A.02 subdivision 18, who is enrolled in a program that would lead to certification within four years as of August 1, 1988; or
2. contract with a public or private health organization or another public agency for at least one full-time equivalent nurse personnel during the regular school year, determined appropriate by the board, who are currently licensed under chapter 148 and who are certified public health nurses; or
3. enter into another arrangement approved by the commissioner.

Minn. Stat. § 121A.21

IDEA Regulations state "That the child is evaluated in all areas of suspected disability, including, if appropriate, health, vision, hearing, social and emotional status, general intelligence, academic performance, communicative status, and motor abilities. (In this case, there are two areas where nurses are typically involved; namely, vision and health. If a certified audiologist is not available, then nurses could conduct the hearing screening.")

34 C.F.R. § 532 (g)

"As used in this part, the term qualified personnel means personnel who have met SEA-approved or SEA-recognized certification, licensing, registration, or other comparable requirements that apply to the area in which the individuals are providing special education or related services."

34 C.F.R. § 300.23

"Appropriate professional requirements in the State means entry-level requirements that – (i) are based on the highest requirements in the state applicable to the profession or discipline in which a person is providing special education or related services;"

34 C.F.R. § 300.136 (a) (1)

"Highest requirement in the State applicable to a specific professional or discipline means the highest entry-level academic degree needed for any state-approved or - recognized certification, licensing, registration, or other comparable requirements that apply to that profession or discipline;"

34 C.F.R. § 300.136 (a) (2)

(a) Review of existing evaluation data. As part of an initial evaluation (if appropriate), and as part of any reevaluation under Part B of the Act, a group that includes the

individuals described in §300.344, and other qualified professionals, as appropriate, shall ..."

34 C.F.R. § 300.533 (a)

Discussion

The districts that are under 1,000 Average Daily Memberships (ADMs) do not have to employ a full-time school nurse or public health nurse. They are, however, required to have a school health program/services available to comply with Minn. Stat. § 121A.21 (a).

Minnesota requires districts with 1,000 or more ADMs to employ a school nurse or certified public health nurse. Since IDEA requirements for the highest standard of licensure are specifically detailed in the regulations, the individual doing the health assessments and the related IPE due process procedures would have to be a licensed school nurse or a certified public health nurse for districts who have 1,000 or more ADMs. Other licensure would not meet the intent of IDEA.

For direct services, however, the highest standard could be an individual who has the appropriate training to provide the services required by the student's IEP. The Board of Education would determine the appropriate training or certification requirements for the direct service(s) personnel.

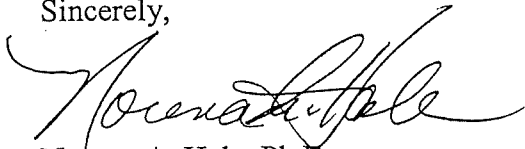
Summary

Evaluation procedures and IEP procedures that require a nurse have to be completed by a licensed school nurse or a certified public health nurse.

Direct health services and other medical interventions may be completed by a school nurse, public health nurse or other professional/certified individual who the board of education indicates is appropriate based upon the need of the student(s).

If you should have any questions, please contact Dr. George Holt. George's phone number is 651-582-8889 or email at george.holt@state.mn.us.

Sincerely,



Notena A. Hale, Ph.D.
Supervisor, Special Education Policy