
Coates' Canons Blog: Public Health Law Update: Back-to-School Edition

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UPDATE: House Bill 13, described below in the section titled Health Assessments, was enacted on August 18, 2015 (S.L. 2015-222). The legislation requires health assessments for all children enrolling in the state's public schools. Under former law, only children entering kindergarten were required to provide a health assessment. More information and a copy of the health assessment form are available from the North Carolina Division of Public Health.

For many families in North Carolina, the arrival of August means it's time to start preparing to send children back to school. In addition to shopping for school supplies and new sneakers, it's a good time to make sure children's school health needs are in order. This post reviews some new immunization requirements that took effect on July 1, and provides a refresher and update on kindergarten health assessments, rescue medications in schools, and that ever-present childhood nuisance – head lice.

Immunizations

Every child present in North Carolina is required to have certain immunizations, unless the child qualifies for a medical or religious exemption. G.S. 130A-152; 130A-156; 130A-157. A parent who wishes to enroll a child in a public or private school or child care facility must present an immunization certificate or documentation of the child's exemption. G.S. 130A-155. Immunization records must also be kept on file for children who are home-schooled. G.S. 115C-564. A child who has not been immunized and does not qualify for an exemption may be excluded from school or child care after 30 days. The 30 days serves essentially as a "grace period," allowing a parent some extra time to track down the required documentation or to obtain immunizations for the child.

New childhood immunization requirements went into effect on July 1, 2015. 10A N.C.A.C. 41A .0401.

One of the new requirements affects children who are presently enrolled in school: Children who enter 7th grade or turn 12 years of age on or after July 1, 2015 must receive **meningococcal vaccine**. A first dose is required by age 12 or entry into 7th grade, whichever comes first, and a second dose is required by age 17 or entry into 12th grade.

Other changes to the immunization requirements affect younger children, including some who may be enrolling in school for the first time this fall. A booster dose of **varicella (chickenpox) vaccine** is now required for children entering school for the first time on or after July 1, 2015. A fourth dose of **polio vaccine** has been required for most children for some time, but state regulations now specify that the fourth dose must occur on or after the child's fourth birthday and before entering school.

There is also a new requirement for **pneumococcal conjugate vaccine** for children born on or after July 1, 2015. While that won't affect the state's K-12 back-to-schoolers this year, families with new babies should take note.

Want more information about immunizations? I've written about the state's immunization laws in this bulletin and have specifically addressed the issue of exclusion from school in this blog post. The state Division of Public Health also maintains a website with extensive information about immunizations for North Carolinians, www.immunize.nc.gov.

Health assessments

Since 1987, each child entering public kindergarten in North Carolina has been required to have a health assessment. The

requirement applies to traditional public schools and charter schools, but not to nonpublic schools or home schools. A child must be excluded from school if the assessment form is not presented within 30 calendar days of the child's first attendance. G.S. 130A-440.

The current requirements for the kindergarten health assessment are reflected on the state's kindergarten health assessment form, which must be completed and signed by a physician, physician's assistant, nurse practitioner, or specially-qualified public health nurse. A completed form includes the results of vision and hearing screenings; information about allergies, medications, developmental concerns, or special dietary needs; and space for the health care provider to make health-related recommendations to enhance the child's school performance. Parents enrolling children in public kindergarten in 2015 should obtain the assessment within 12 months before school entry.

A bill currently pending in the North Carolina legislature would make some changes to this requirement. Please *note that this bill has not been enacted, so the provisions described in this paragraph are not currently law*. House Bill 13 would extend the requirement for a health assessment to all children enrolling in North Carolina public schools, not just kindergarteners. Beginning with the 2015-16 school year, the parent or guardian of a child enrolling in a North Carolina public school for the first time would be required to present a health assessment that was completed no more than 12 months before the child would have first been eligible to enroll in the public schools. (Note that for some children, this could be more than 12 months before actual enrollment. The law does not provide further direction for schools to determine the date a child was first eligible for enrollment, if a child presents an assessment that is dated more than 12 months before actual enrollment.) In the event of a child's exclusion for failure to present the form within 30 days, the school would be required to permit the child to make up work and would be prohibited from suspending the child for absences accrued because of failure to submit the form. The most recent version of the bill would also specify and limit the information that may be included on the health assessment form.

The bill passed the House in March, committee substitute versions were approved by two Senate committees earlier this week, and it is on the Senate calendar for its second reading on Monday, July 27. Because the Senate has adopted committee substitutes, if the bill passes the Senate it will have to return to the House for approval or further negotiations.

Rescue medications in school

Some children with allergies need access to single-use epinephrine auto-injectors, a medical device that counteracts severe allergic reactions. These devices are commonly known as epi-pens (which is actually a brand name, but one that seems to have acquired generic use). In the last ten years, North Carolina law has been modified a couple of times to support the availability and use of these devices in schools. State law also addresses the use of asthma inhalers and medications. I'm using the term "rescue medications" to describe all of these – epi-pens, inhalers, and asthma medications.

Since 2005, the state has had a law requiring local school boards to adopt policies that permit students who meet certain conditions to possess and self-administer epi-pens or asthma medications or inhalers. To obtain permission to possess and self-administer these rescue medications, a student must have written verification of need for the device or medication and a treatment plan from a health care provider, along with written authorization to possess and use the rescue medication and a signed release of liability from the student's parent or guardian. The student must also demonstrate to the school nurse or nurse's designee that the student has the skills necessary to use the rescue medication. Permission for a student to possess and self-administer rescue medications must be renewed annually. G.S. 115C-375.2.

What about students who can't possess and self-administer medications for some reason, or who simply don't have it with them when it is needed? Since November 2014, North Carolina K-12 public schools (including charter schools) have been required to maintain a stock of epi-pens for use in emergencies. G.S. 115C-375.2A makes local school boards and boards of directors of charter schools responsible for ensuring that each school has at least two epi-pens stored in a secure but unlocked and easily accessible location, for use by trained school personnel in an emergency. Each school principal must designate one or more school personnel to be trained in the emergency use of the devices. The training of school personnel must be conducted by a school nurse or local health department personnel.

Head lice

A sad but true fact of life: head lice love children—perhaps because children lack adults' concepts of personal space and don't hesitate to put their heads very close together when they work or play. It's a virtual guarantee that a school will

encounter head lice in its students at some point during the school year, possibly on day one. What should happen when head lice find their way into a school?

There's no law on this in North Carolina. Sometimes head lice are described colloquially in terms similar to communicable conditions, so let me be crystal clear about this: the state's communicable disease laws *do not apply* to head lice. Nor do any other public health statutes or regulations, and with reason—lice are considered a nuisance rather than a serious health problem. Statewide school laws don't address them either, but sometimes local school policies do. When those policies require students to be excluded from school, concerns may arise from either parents or school staff.

In April 2015, the American Academy of Pediatrics issued a statement about head lice that opposed “no-nits” policies—that is, policies that require children to be excluded from school until they are completely free of nits, the egg cases that lice attach to hair. The AAP expressed concern that children may miss excessive amounts of school due to these policies and encouraged schools to instead adopt lice control measures that permit children with live lice to finish the school day and then be treated at home and returned to school.

Of course, AAP statements are not law and schools are not obliged to follow them. I do think it is worth noting, however, that this professional health care association has gone on record saying exclusion for lice is not medically necessary for either the child who has the lice or other children in the school. The AAP's complete recommendations for lice management at school and at home can be found in this article.

Back to school!

That's all for now, but I will update this post if House Bill 13 becomes law or if there are any other legislative changes to these topics. Best wishes for a terrific year to all Coates' readers who are involved with schools in any capacity.

Links

- www.ncleg.net/Sessions/2015/Bills/House/PDF/H13v8.pdf
- www2.ncdhs.gov/dph/wch/families/schoolhealth.htm
- www.ncleg.net/gascripts/statutes/statutelookup.pl?statute=130a-152
- www.ncleg.net/gascripts/statutes/statutelookup.pl?statute=130a-156
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- www.ncleg.net/gascripts/statutes/statutelookup.pl?statute=130a-155
- www.ncleg.net/gascripts/statutes/statutelookup.pl?statute=115c-564
- reports.oah.state.nc.us/ncac/title%2010a%20-%20health%20and%20human%20services/chapter%2041%20-%20epidemiology%20health/subchapter%20a/10a%20ncac%2041a%20.0401.pdf
- www.cdc.gov/vaccines/hcp/vis/vis-statements/mening.html
- www.cdc.gov/vaccines/hcp/vis/vis-statements/varicella.html
- www.cdc.gov/vaccines/hcp/vis/vis-statements/ipv.html
- www.cdc.gov/vaccines/hcp/vis/vis-statements/pcv13.html
- sogpubs.unc.edu/electronicversions/pdfs/hlb91.pdf?
- canons.sog.unc.edu/?p=7983
- www.immunize.nc.gov
- www.ncleg.net/gascripts/statutes/statutelookup.pl?statute=130a-440
- www2.ncdhs.gov/dph/wch/doc/aboutus/KHA_1-11.pdf
- www.ncleg.net/gascripts/BillLookUp/BillLookUp.pl?Session=2015&BillID=h13&submitButton=Go
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- www.aap.org/en-us/about-the-aap/aap-press-room/Pages/AAP-Updates-Treatments-for-Head-Lice.aspx
- pediatrics.aappublications.org/content/135/5/e1355.full.pdf+html