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Missouri School Boards' Association



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# Laws that Impact School Nurses

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# Today's Menu

- Federal and State laws
- Laws governing immunizations and communicable diseases
- New state laws of interest

# Family Educational Rights and Privacy Act (FERPA)

- FERPA is a federal statute.
- Protects personally identifiable information (PII) in or obtained from student education records.
  - Including health records
  - Records covered by FERPA are not subject to HIPAA.
- Gives parents certain rights.

# FERPA (Parental Rights)

- Inspect and review education records
- Seek amendment of records
- Consent before disclosure
  - Exceptions
- Annual notice
  - Rights
  - Procedures for exercising rights

# FERPA

## (Access to Records)

- Student health records covered by FERPA, not HIPAA
- Employees and contracted service providers have access
- Access limited to those with a legitimate educational interest
- Access depended on the nature of the records and the duties of the employee

# FERPA (Release of Records)

- Health and safety exception
- Directory information
  - Open record in Missouri
- COVID

# ADA/504 (Disability Discrimination)

- Americans with Disabilities Act
  - Health information must be carefully protected.
    - Supervisor if accommodations are requested
    - Those providing first aid or emergency care
    - Compliance reviews
- Section 504
  - Basically the same as ADA



# Individuals with Disabilities Education Act (IDEA)

- Also addresses discrimination based on disability
- Focuses on learning rather than access
- Often includes medical conditions

# Missouri Sunshine Law

- Student records are closed to public
- Parents always have access

# School Nurse/Student Relationship

- Confidential, not privileged
- Do not promise to keep secrets
  - You may not be able to do so
- Example

# Mandated Reporters

- All school employees are mandated reporters of child abuse and neglect.
  - Must report if “reasonable cause to suspect that a child has been or may be subject to abuse or neglect or has observed a child being subjected to conditions or circumstances that would reasonably result in abuse or neglect”
  - Sexual misconduct
- Employees are required to report incidents of bullying they witness within two days.

# Section Summary

- The primary laws that impact school nurses are the Family Educational Rights and Privacy Act (FERPA), the Americans with Disabilities Act (ADA), Section 504 of the Rehabilitation Act of 1973 (Section 504), The Individuals with Disabilities Education Act (IDEA) and the Missouri Sunshine Law.
- Student records are confidential, but not privileged, and are available to parents under FERPA and the Sunshine Law.

# Section Summary

- Pursuant to FERPA, student records may be disclosed to other district employees with a legitimate educational interest in the records.
- Student records may be disclosed in a health or safety emergency.
- School nurses are mandated reporters for child abuse and neglect and bullying.

# Immunizations (Missouri Law)

“It is unlawful for any student to attend school unless he has been immunized as required under the rules and regulations of the department of health and senior services.”

# Immunizations (Missouri Law)

There are three exemptions that allow students to attend school without proof of vaccination:

- “[E]vidence of having begun the process of immunization [and that] the immunization process is being accomplished in the prescribed manner”.
- The parent states that vaccination is not consistent with their “religious beliefs”
- A doctor states there are “medical contraindications” for this student and the student should not be vaccinated.



# Immunizations (Missouri Law)

“It is unlawful for any parent or guardian to refuse or neglect to have his child immunized as required by this section, unless the child is properly exempted.”

The superintendent is required to track and report immunizations to DHSS by October 15 each year.

Students that have no proof of immunizations or an exemption must be suspended from school.

# Immunizations (Missouri Law)

- Religious and medical exemptions must be submitted on the original forms from the DHSS.
- Students from military families, foster care and homeless children are allowed thirty days after enrollment to provide immunization records or an exemption.

# Immunizations (Missouri Law)

- Students in public, private, or parochial day care centers, preschools, or nursery schools (collectively “preschool”) caring for ten or more children are also required to be immunized.
- There are four exemptions:
  - Immunization in progress, religious beliefs, medical contraindications and parental exemption.
- Parents with children in these care facilities are entitled to know whether there are exempted children currently enrolled in or attending the facility.
  - No student names.

# Communicable Diseases (Missouri Law)

- “The director [of DHSS] [or designee] shall use all legal means necessary to control, investigate, or both, any disease or condition listed [in the regulations] which is a threat to public health.”
- “It shall be the duty of the local health authority, the director [of DHSS] or the director’s designee to . . .
  - Establish and maintain quarantine, isolation or other measures as required; . . .
  - Establish appropriate control measures which may include isolation, quarantine, immunization, closure of establishments . . .”

# Communicable Diseases (Missouri Law)

- “The local health authority, the director of the Department of Health and Senior Services [or designee] is empowered to close any public or private school . . . *However, in a statewide pandemic, only the director of the Department of Health and Senior Services [or designee] shall have the authority to close a public or private school.*
  - The director [or designee] shall consult with the local health authorities prior to any such closing.
  - Any school . . . ordered closed shall not reopen until permitted by whomever ordered the closure.”

# Communicable Diseases (Your Role)

- Report communicable diseases
- Contact tracing
- Testing
- Administering vaccine?
- What about liability?
  - State and federal protections
  - Bill in special session

# Communicable Diseases (Flu Season)

- May have fewer people getting vaccinated.
  - Onsite vaccinations
  - Drive thru
- Maybe masks and hand washing will slow the spread.

# Section Summary

- The law requires students to be current on immunizations in order to attend schools and preschools.
- Parents are required to provide proof of immunizations, evidence that immunizations are in progress or a medical or religious exemption (parent objection for preschool).
  - On original forms



# Section Summary

- Parents of children in preschools are entitled to know if any student enrolled in or attending the preschool has an immunization exemption.
- Students who do not have proof of immunizations or an exemption on file by October 15 must be suspended from school.

# Section Summary

- The director of DHSS is required to use all legal means to control a communicable disease.
- The director of DHSS has the authority to close schools in a pandemic.
- Both the director and the local health authority have the authority to close schools in other public health situations.

# Section Summary

- You have immunity performing your duties if you are doing so in accordance with board policy, and written instructions that were provided and any training you received.

# Recent Laws

## **Service Dogs Senate Bills: 644 & 656**

- Allows for a person with a legal disability to be accompanied by one or more service dogs and expands the definition of a service dog to include a mental health or psychiatric service dog.
- Creates the crime of misrepresenting a dog as a service dog, a Class C misdemeanor.

## **Automated External Defibrillators: HB 1682**

- Requires entities that acquire AEDs to maintain the AED as recommended by the manufacturer, test the AED at least every two years and after each use, and inspect the AED at least every 90 days.
- Expands immunity for using an AED to include immunity from criminal charges and penalties.
- Requires any training or course in CPR to include instruction on the proper use of an AED.

## **Vaping: House Bill 1682**

Prohibits the use of vapor products inside a school building. The school board may set policy on the use of vapor products in other areas.

## **Drinking Water Safety: House Bill 2120**

- Subject to appropriation, districts may test drinking water for lead contamination in buildings built before 1996 serving students under first grade.
- DHSS will provide guidelines on sampling and a list of laboratories.
- If any samples exceed current standards for lead by the U.S. EPA, the district must notify parents of students enrolled in the school. In some cases, the district is required to provide notice of the test results on the school's website.



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