

**MEDICALLY NECESSARY TREATMENT IN SCHOOL SETTING**

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The provision of medically necessary treatment to students by private health-care specialists must be done in accordance with this policy. If medically necessary treatment requires administration of prescription and/or nonprescription medications to students, such administration must be in accordance with applicable law and the Board's policy concerning the administration of medications to students.

**Definitions**

For purposes of this policy, the following definitions apply:

1. “Medically necessary treatment” means treatment recommended or ordered by a Colorado licensed health-care provider acting within the scope of the health-care provider’s license.
2. “Private health-care specialist” means a health-care provider who is licensed, certified, or otherwise authorized to provide health-care services in Colorado, including pediatric behavioral health treatment providers pursuant to the state medical assistance program, C.R.S. 25.5, articles 4, 5, and 6, and autism services providers who provide treatment pursuant to C.R.S. 10-16-104 (1.4). In no event may a school district or administrative unit staff member be recognized as a private health-care specialist for the purposes of this policy.

**Notification of Rights**

Parents and/or legal guardians of a student with disabilities will be notified that section 504 of the federal “Rehabilitation Act of 1973”, 29 U.S.C. sec. 794, as amended, and Title II of the federal “Americans with Disabilities Act of 1990” provide rights and protections to students to access medically necessary treatment required by the student to have meaningful access to the benefits of a public education, or to attend school without risks to the student’s health or safety due to the student’s disabling medical condition.

**Determination Whether Medically Necessary Treatment Must be Provided on School Premises**

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1. It will be the responsibility of a student's IEP team or 504 team to determine whether any medically necessary treatment must be provided to the student within the school setting in order for the student to access their education, pursuant to section 504 of the federal "Rehabilitation Act of 1973", 29 U.S.C. sec. 794, as amended, and Title II of the federal "Americans with Disabilities Act of 1990."
2. When making the determination whether medically necessary treatment must be provided within the school setting, the student's IEP team or 504 team will invite the private health-care specialist who ordered or recommended the medically necessary treatment to attend the student's IEP meeting or 504 meeting at which the issue will be discussed. The invitation will include the option for the private health-care specialist to submit information in writing that can be reviewed at such IEP meeting or 504 meeting. The invitation will be given not less than ten (10) calendar days in advance of the IEP or 504 meeting.
3. Nothing in this policy will be construed to prevent the district from using its own staff, if qualified, or contracting with a qualified provider of its choice to provide medically necessary treatment that a student's IEP team or 504 team has determined must be provided in the school setting pursuant to section 504 of the federal "Rehabilitation Act of 1973", 29 U.S.C. sec. 794, as amended, and/or Title II of the federal "Americans with Disabilities Act of 1990."
4. Nothing in this policy will be construed to require the district to permit a third party to determine or provide special education or related services in the school setting in a way that interferes with the districts' obligations and authority under federal law.

**Access to School Setting by Private Health-Care Specialists**

1. *Access to provide medically necessary treatment.* A private health-care specialist may be granted access to school or district property to provide medically necessary treatment in accordance with the determination of the student's IEP team or 504 team, and subject to the Board's policy and/or procedures concerning visitors to schools and all other applicable policies, and subject to the provisions of regulation JLCDC-R.

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2. *Access to solely observe student or collaborate with school personnel.* A private health-care specialist may be granted access to school or district property to observe the student in the school setting or collaborate with school personnel regarding the student, without providing direct treatment to the student, in accordance with the determination of the student's IEP team or 504 team, and subject to the Board's policy and/or procedures concerning visitors to schools and all other applicable policies.

Permission to provide medically necessary treatment on school premises may be limited or revoked if the private health-care specialist violates this policy or JLCDC\*-R or demonstrates an inability to responsibly follow the requirements of the school district or administrative unit.

**Appeal**

If the IEP team or the 504 team determines that any medically necessary treatment is not required to be provided in the school setting pursuant to section 504 of the federal "Rehabilitation Act of 1973", 29 U.S.C. sec. 794, as amended, and/or Title II of the federal "Americans with Disabilities Act of 1990," the IEP team or 504 team will provide notice to the student's parents or legal guardian that the student has a right to appeal such determination. Such appeal shall adhere to the formal hearing procedures set forth in regulation IHBC-R, Implementing Section 504 of the Rehabilitation Act of 1973. Such appeal shall not apply to any determination made under the Individuals with Disabilities Education Act.

**Reporting**

Each school shall designate a particular staff member to report the following to the superintendent or designee on a regular basis: the name of the requesting student, the student's request, and the outcome of the request, whether accepted or denied.

LEGAL REFS.: 42 U.S.C. sec. 1396 and 1396d(r)(5) (*stating that Colorado's Medicaid program is required to cover all medically necessary treatment, including treatment in school settings.*)  
C.R.S. § 22-20-121

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CROSS REFS.: IHBC, Implementing Section 504 of the Rehabilitation Act of 1973 ("Section 504")  
JLCD, Administering Medications to Students  
JLCDB, Administration of Medical Marijuana to Qualified Students  
JLCE, First Aid and Emergency Medical Care  
JLCDC-R, Authorizing Private Health-Care Specialists to Provide Medically Necessary Treatment in School Setting  
KI, Visitors in Schools

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A private health-care specialist may be permitted to come onto the premises of any district school for the purpose of providing medically necessary treatment to a student if it has been determined by the student's IEP team or 504 team that such medically necessary treatment must be provided to the student within the school setting pursuant to section 504 of the federal "Rehabilitation Act of 1973", 29 U.S.C. sec. 794, as amended, and Title II of the federal "Americans with Disabilities Act of 1990."

Such treatment will not occur on school premises unless the following minimum requirements are met:

1. The student's parent signs a parental consent form to any medically necessary treatment in the school setting.
2. The district prepares, with the input of the private health-care specialist and the student's parent/guardian, a written plan that identifies the form, designated location(s), treatment plan for administration from the private health-care specialist, and any additional protocol regarding administration of medically necessary treatment to the student if deemed necessary by the District. The written plan must be signed by the school administrator, the student (if capable), the private health-care specialist, and the student's parent/guardian.
3. The district provides a representative who has the authority and responsibility to work with the parents and private health-care specialist to schedule and/or cancel the private health-care specialist's visits to the school to provide medically necessary treatment.
4. A health care specialist must submit to and cooperate with a background check, which may include fingerprinting. The District is not responsible for any costs associated with the background check. All health-care specialists must be appropriately supervised by their employing agency in compliance with industry standards.
5. District staff shall not share the qualifying student's educational information with the health-care specialist except as authorized by parents/legal guardians. The private health-care specialist will not provide medically necessary treatment to any other student, staff or visitor

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on the District's property and will also sign a Confidentiality Affidavit certifying that they will comply with FERPA and HIPAA, and shall not read any documents or file materials pertaining to any student other than the qualifying student.

6. The private health-care specialist must provide evidence of commercial general liability insurance and professional liability insurance in an amount no less than one million dollars (\$1,000,000) per occurrence and three million dollars (\$3,000,000) annual aggregate. The private health-care specialist must also provide evidence of Auto Liability insurance when applicable. The District must be named as an additional insured party under these policies.
7. The private health-care specialist must provide evidence satisfactory to the District's Representative that the health-care specialist has all required certificates or licenses as required by the State of Colorado relating to the provision of medically necessary treatment for the student.
8. The private health-care specialist signs an Assumption of Risk form waiving any and all claims and demands for relief concerning any physical or emotional harm, injury, or damage to the private health-care specialist caused by the student and/or any other student.

After the medically necessary treatment begins, the treatment is subject to the following conditions:

1. At all times, through implementation of this regulation and associated policy, all parties shall strive to avoid disruption to the learning environment of all students, avoid disruption to the student's access to special education services, and maintain the integrity of all students' instructional programs.
2. The private health-care specialist must give at least two weeks' advance notice of any additional visits to the school to work with the student that were not mentioned in the written plan.
3. The district has sole discretion to deny an additional visit, or reschedule or modify any planned visit, if the visit to the school would interfere with the school's necessary activities,

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schedule of school staff, or scheduling priorities. Except in an emergency, the private health-care specialist and the student's parent/guardian will be given two weeks' advance notice of any rescheduling or modification of an existing visit.

4. The student's parent/guardian will be solely responsible for compensating the private health-care specialist for medically necessary treatment, and the district will have no financial obligation to the private health-care specialist for fees, expenses, or any other associated cost. If the private health-care specialist offers suggestions, professional observations, opinions, advice, or consultation to and for district staff, the district will not be obligated to pay any associated fee or charge.
5. The private health-care specialist must follow all applicable provisions of state and federal law and district policies during any time the private health-care specialist is on district premises.
6. The district will not exercise supervisory control over the content or nature of private health-care specialist's medically necessary treatment of the student. However, if requested, the district is entitled to advance discussion and review of the content and nature of such services in order to coordinate the medically necessary treatment with other classroom and school activities.
7. Permission for the private health-care specialist to administer medically necessary treatment to a student, and to remain on district property, may be limited or revoked if the private health-care specialist violates this policy or demonstrates an inability to responsibly follow this policy's parameters.