October 28, 2015

Ms. Tina Shockley, Education Associate
Department of Education
401 Federal Street, Suite 2
Dover, DE 19901

RE: 19 DE Reg. 234 [DOE Proposed School Health Record Keeping Regulation]

Dear Ms. Shockley:

The State Council for Persons with Disabilities (SCPD) has reviewed the Department of Education’s (DOE’s) proposal to adopt revisions to its standards covering school health records. The proposed regulation was published as 19 DE Reg. 234 in the October 1, 2015 issue of the Register of Regulations. SCPD has the following observations.

First, in §1.0, definition of “Delaware School Health Record”, the reference to “issued medications” is unclear. Does this refer only to medications administered or provided to the student by a school nurse? Alternatively, does it refer to “prescribed” and “non-prescribed” medications? It would make sense to at least include a list of prescribed medications in the record regardless of whether the nurse is “issuing” the medication. For example, a student may present with side-effects of a drug or the nurse might otherwise consider giving the student a medication (e.g. Advil; Aspirin) which may be “contraindicated” in conjunction with a prescribed drug.

Second, in §1.0, definition of “Delaware School Health Record”, the term “mandated testing and screenings” ostensibly covers those encompassed by 14 DE Admin Code 815. However, it is limiting since it would exclude testing and screenings which are not “mandatory”. For example, if a nurse conducted an “extra” vision screening in a non-mandated grade [14 DE Admin Code 815.3.1], it would be prudent to include such results in the health record. Consider the following alternative language: “results of mandated and discretionary testing and screenings” OR “results of required and discretionary testing and screenings”.

Third, the DIAA concussion regulations include an authorization for “school nurse” screening/clearance of a student to return to play. See 14 DE Admin Code 1008.3.1.6.2 and 14 DE Admin Code 1009.3.1.6.2. School nurses are authorized to perform “sidelines” duties. See 14 DE Admin Code 1008.3.1.1 and 14 DE Admin Code 1009.3.3.1. The DIAA regulations also
contemplate submission of return-to-play authorizations to a school by other health providers. See, e.g., attached DIAA return-to-play form which envisions school nurse supervision of implementation of a Return to Play Plan. Other DIAA regulations require school acquisition of medical records on student athletes. See 14 DE Admin Code 1008.3.1 and 14 DE Admin Code 1009.3.1. It would be prudent to specifically include a reference to such medical documents in the definition of “Delaware School Health Record”. For example, the definition could at least include the following reference: “student athlete health records required by DIAA regulation” or “student athlete health records compiled in implementation of DIAA regulation”.

Fourth, in §1.0, definition of “Emergency/Nursing Treatment Card”, the DOE may wish to consider adding an email address for identified classes of individuals.

Fifth, in §2.1.4, the DOE may wish to refer to “parent, guardian, or Relative Caregiver” for consistency with other regulatory sections (§1.0, definitions of “Emergency/Nursing Treatment Card” and “Student Health History Update”; §2.1.2; §4.1.1).

Thank you for your consideration and please contact SCPD if you have any questions or comments regarding our observations on the proposed regulation.

Sincerely,

Daniese McMullin-Powell, Chairperson
State Council for Persons with Disabilities

cc: The Honorable Steven Godowsky, Ed.D, Secretary of Education
Mr. Chris Kenton, Professional Standards Board
Dr. Teri Quinn Gray, State Board of Education
Ms. Mary Ann Mieczkowski, Department of Education
Ms. Kathleen Geiszler, Esq., Department of Justice
Ms. Terry Hickey, Esq., Department of Justice
Ms. Iona Kirshon, Esq., Department of Justice
Mr. Brian Hartman, Esq.
Developmental Disabilities Council
Governor’s Advisory Council for Exceptional Citizens

19reg234 doe-school health record keeping 10-28-15
DIAA ACUTE CONCUSSION EVALUATION (ACE) & RETURN TO PLAY FORM

Athlete Name: ________________________________  Date of Birth: __________________

Qualified Health Care Provider (QHP) at school

Name of QHP initially examining athlete on site: ________________________________ (please print)  Date initially examined: __________________

Today the following symptoms are present (please circle):

<table>
<thead>
<tr>
<th>Physical</th>
<th>Thinking</th>
<th>Emotional</th>
<th>Sleep</th>
</tr>
</thead>
<tbody>
<tr>
<td>Headache</td>
<td>Light sensitivity</td>
<td>Feeling mentally foggy</td>
<td>Irritability</td>
</tr>
<tr>
<td>Nausea</td>
<td>Noise sensitivity</td>
<td>Problems concentrating</td>
<td>Sadness</td>
</tr>
<tr>
<td>Fatigue</td>
<td>Numbness/tingling</td>
<td>Problems remembering</td>
<td>Feeling more emotional</td>
</tr>
<tr>
<td>Vomiting</td>
<td>Visual problems</td>
<td>Feeling slowed down</td>
<td>Nervousness</td>
</tr>
<tr>
<td>Dizziness</td>
<td>Balance problems</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

OTHER: ________________________________

Gradual Return to Play (RTP) Plan:

RTP Plan must occur in gradual steps under the supervision of a QHP (see DIAA regulations for definition of QHP). This QHP, usually the school's ATC or RN, should be on-site supervising the RTP. After completion of a stage without any symptoms, athlete may progress to the next level of activity on the next day. If symptoms return, athlete must regress the stage and be seen by a qualified physician (see DIAA regs) if not seen by a MD/DO prior. Continued or worsening signs or symptoms should be reported to the physician immediately. Before an athlete may initiate Stage 5 "full contact," they must be cleared by a qualified physician.

School QHP Signature: ________________________________  Date: __________________

Stage 1:  No physical activity. If athlete has no signs or symptoms consistent with a concussion they may progress, after 24 hours, to Stage 2, etc.

Stage 2:  Low levels of physical activity (ie symptoms do not come back during or after the activity). This includes walking, light jogging, light stationary bike, light weight lifting (low weight, higher reps, no bench, no squat)

Stage 3:  Moderate levels of physical activity with body/head movement. Includes moderate jogging, brief running, moderate-intensity stationary biking, moderate-intensity weightlifting (reduce time and/or weight from typical routine)

Stage 4:  Heavy non-contact physical activity. This includes sprinting/running, high intensity stationary bike, regular weightlifting routine, non-contact sport specific drills (3 planes of movement)

Stage 5:  *** Must have physician clearance before beginning this stage***  Full contact in controlled practice.

Stage 6:  Full contact in game play. If signs or symptoms return after Stage 5, must see physician again for Stage 6 clearance.

✦ ATHLETES MAY NOT RETURN TO ACTIVITY ON THE SAME DAY THAT A HEAD INJURY OCCURRED
✦ ATHLETES MAY NOT RETURN TO ACTIVITY IF THEY EXHIBIT ANY SIGNS OR SYMPTOMS CONSISTENT WITH A CONCUSSION
✦ ATHLETES MUST SUCCESSFULLY PROGRESS THROUGH THE RTP PLAN, WITH MD/DO CLEARANCE, BEFORE CONTACT/RTP

PHYSICIAN CLEARANCE

I declare that I am a qualified physician (MD or DO only) who, in accordance with DIAA regulations as well as standards of medical care in concussion management, recommend the following:

☐ May not progress within the RTP Plan above; requires further medical intervention at this time. Contact my office

☐ May resume gradual progression of the RTP Plan with the following exceptions/modifications:

☐ May progress, per protocol, through Stage 5 and if symptom free, may advance to Stage 6.

☐ Other: ________________________________

This RTP Plan was based upon today's evaluation:

This form is adopted from the Acute Concussion Evaluation care plan developed by the CDC (www.cdc.gov/Injury). All medical providers are strongly encouraged to use this form for concussed athletes participating in DIAA sports. While other forms may be used, all medical providers must abide by DIAA protocol [http://www.doe.ks.us/Infosources/students_family/diaa/] including the return to play plan noted above, before an athlete may return to athletics.
INSTRUCTIONS FOR ACE FORM

If an athlete exhibits signs or symptoms consistent with a concussion, they shall be removed from play immediately. A qualified healthcare professional (QHP) must then determine whether or not an apparent concussion has occurred. If a qualified healthcare professional determines the injury must be treated as a concussion and the athlete not be allowed to return to play, the athlete’s return to play cannot be determined otherwise by a qualified healthcare professional. If the qualified healthcare professional is unable to rule out a concussion, the athlete must be treated as though he/she has sustained a concussion. The top blue section of the ACE form should be completed by the QHP and the yellow RCP plan should be initiated. Note: In all situations where an athlete is determined to have suffered a concussion, the athlete and his/her parent or guardian shall be contacted, and if possible, the appropriate authority or physician shall be contacted. If the symptoms become progressive, they should seek medical services immediately.

2. The school’s QHP may progress the athlete through the RCP plan (gold section) through stage four, so long as no symptoms return. Each stage of the RCP plan should be no less than one day. If symptoms return, the athlete must be referred to a qualified physician (MD or DO only) before any further activity can occur. Before progressing to stage 5, the QHP must sign off on the RCP plan section of the form and refer the athlete to a qualified physician (MD/DO only) if the athlete has not already seen a physician or if the physician requires such follow-up, after an earlier physician visit.

3. Before progressing to stage 5, the school must obtain written clearance from a qualified physician (MD/DO only). This clearance can be found at the bottom (grey section) of the ACE form. Any athlete that progresses into stage 5 and beyond without written clearance shall be considered ineligible, and all games subsequent to such entry shall be a forfeit for the school.

A qualified healthcare professional (QHP) shall be defined as a MD or DO; or school nurse, nurse practitioner, physician assistant, or athletic trainer, with collaboration and/or supervision by a MD or DO as required by their professional state laws and regulations. The qualified healthcare professional must be licensed by their state, be in good standing with the State of Delaware, and if the evaluation is provided on site, it must be approved or appointed by the administrative head of school or designee, or the DIAA Executive Director "Written Clearance from a qualified physician" for progression into stage 5 and return to play after a potential concussion, shall be a MD/DO only, who is licensed by their state and in good standing with the State of Delaware.

This form is adapted from the Acute Concussion Evaluation Care plan developed by the CDC (www.cdc.gov/injury). All medical providers are strongly encouraged to use this form for concussion athletes participating in DIAA sports. While other forms may be used, all medical providers must abide by DIAA protocol (http://www.doe.k12.de.us/infosuites/students_family/diaa/) including the return to play plan noted above, before an athlete may return to athletics.