

Adoption Resolution
October 3, 2012

**RESOLUTION TO ADOPT THE DEPARTMENT OF HUMAN SERVICES DIRECTORY
OF CLINICAL NURSING SERVICE PROVIDERS FOR MEDICALLY FRAGILE
STUDENTS**

WHEREAS, the Legislature recently enacted P.L.2012, c.5, which addresses the unique needs of medically fragile students while attending school; and

WHEREAS, the Legislature found and declared that medically fragile students who require clinical nursing services while attending school should expect and receive the same level of care they receive at home; and

WHEREAS, in order to address the often inadequate quality of care medically fragile students receive while attending school, and to guarantee the health and safety of medically fragile students receive while attending school, the Legislature declared that providers of clinical nursing services for such students must meet the same qualifications as providers of clinical nursing services approved by the State's Medicaid and NJ FamilyCare programs; and

WHEREAS, the Legislature defined "provider of clinical nursing services" to mean an agency that provides clinical nursing services and is approved to provide private duty nursing under the Medicaid or FamilyCare programs; and

WHEREAS, *N.J.S.A. 18A:40-3.3* already mandates that special education students and those with specialized medical needs requiring specialized care shall have that care rendered by an appropriate provider as appointed by the State Board of Education; and

WHEREAS, because the Legislature has determined that the qualifications for providers of clinical nursing services be the same as those required for providers of private duty nursing as approved by the State's Medicaid and NJ FamilyCare programs; and

WHEREAS, the Department of Human Services maintains a directory of private duty nursing service providers approved and enrolled to participate in the State's Medicaid and NJ FamilyCare programs; and

WHEREAS, the Commissioner of Education recommends appointing as appropriate providers of clinical nursing services for medically fragile students while attending school, those providers of private duty nursing approved and enrolled to participate in the State's Medicaid and NJ FamilyCare programs as indicated through the Department of Human Services directory available at <http://www.njmmis.com/providerdirectory.aspx>; now therefore be it

RESOLVED, for the purpose of meeting its statutory obligation and ensuring that appropriate providers are appointed to meet the needs of medically fragile students, the State Board of Education hereby approves the hiring, by local district boards of education, only of providers of clinical nursing services who appear on the Department of Human Services directory of providers of private duty nursing as approved and enrolled to participate in the State's Medicaid and NJ FamilyCare programs;

AND BE IT FURTHER RSEOLVED, that pursuant to P.L.2012, c.5, the State Board of Education shall allow a provider chosen by the parent or guardian of a medically fragile student to render such clinical nursing services to the student, but only if the cost to the school district remains neutral. Such requests shall be submitted to the Department of Education, along with a certification from the school district stating that the cost is neutral;

AND BE IT FURTHER RESOLVED, that, in the event of a dispute regarding the neutrality of the cost of a provider chosen by the parent or guardian of a medically fragile student, such a dispute shall be resolved by the Bureau of Controversies and Disputes in accordance with the procedures set forth in N.J.A.C. 6A:3-1.1 et seq. Upon a finding by the Commissioner of Education that the cost of a provider chosen by the parent or guardian of a medically fragile student remains neutral to the respective school district, the decision setting forth such a finding shall be submitted with the request for allowance;

AND BE IT FURTHER RESOLVED, that pending the outcome of a dispute regarding the cost of a provider chosen by a parent or guardian of a medically fragile student, all necessary clinical nursing services shall be rendered by the provider otherwise offered by the district consistent with this resolution.

Christopher D. Cerf, Commissioner
Secretary, NJ State Board of Education

Arcelio Aponte, President
NJ State Board of Education