

# Legal Issues in School Health

---

Kirsten Leloudis

November 10, 2025

UNC School of Government

*The information provided in this presentation is for educational purposes only and does not constitute legal advice or establish an attorney-client relationship.*





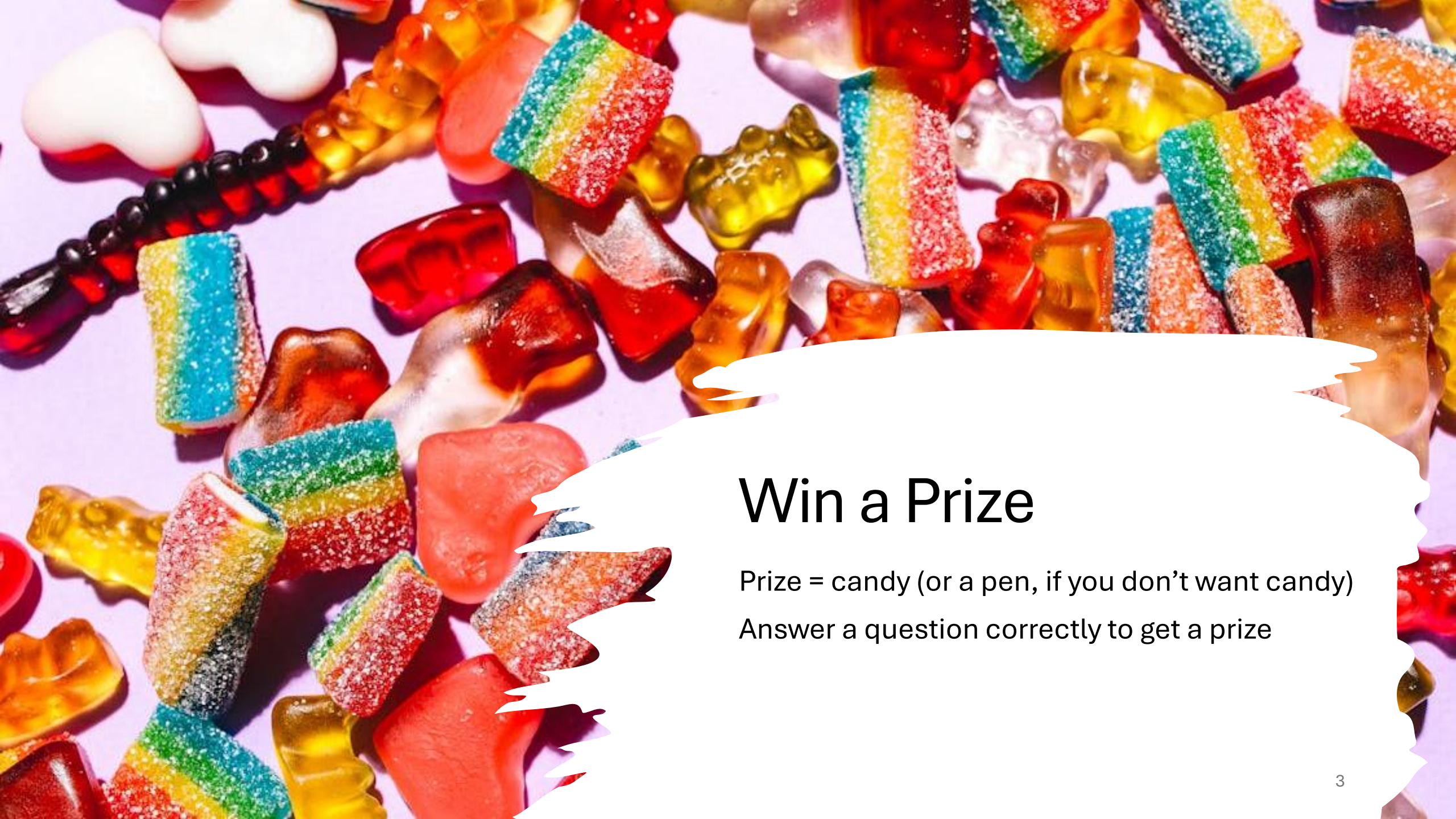
# Roadmap

School Nursing in NC: An Overview

Revisiting Consent to Care Issues

Challenges with Information Sharing: HIPAA + FERPA





# Win a Prize

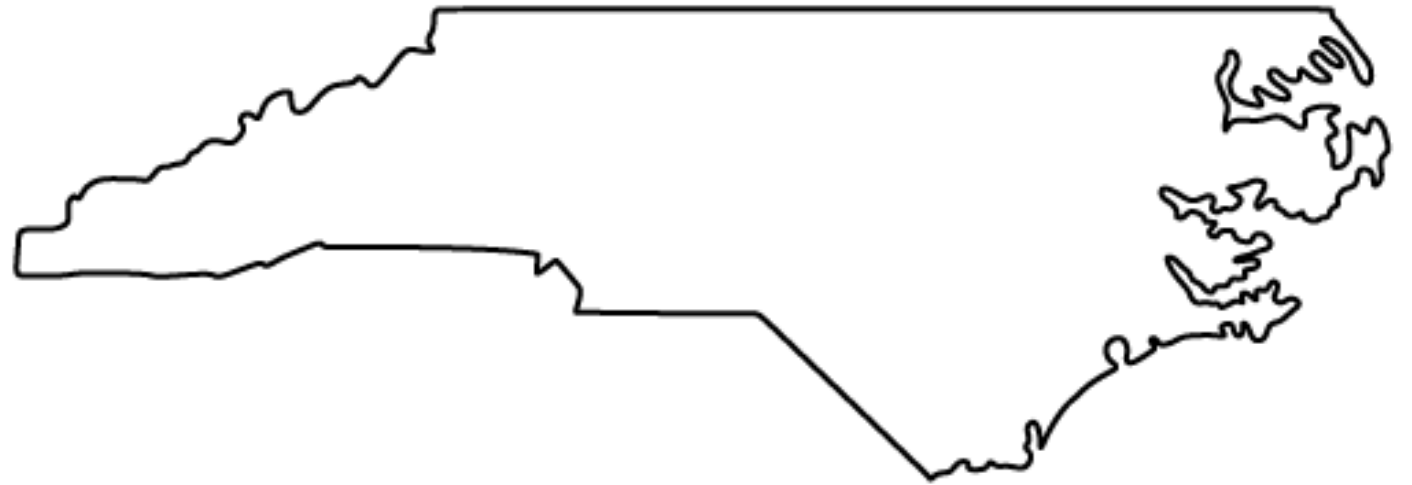
Prize = candy (or a pen, if you don't want candy)

Answer a question correctly to get a prize

# School Nursing in NC

---

An Overview







# But First...

---

Has anyone in today's audience ever worked as a school nurse?

*Thanks for what you do!*





# Why Have School Nurses?

---

*No candy for this one, but what do you think?*





# Why Have School Nurses?

---

Potential answers:

- Accidents happen!
- Illness happens!
- Communicable disease response and management
- Support for 504/IEPs
- Care and management for chronic health needs
- Medication administration
- Source of health information and education
- Emergency response
- And more



# Law Requiring School Nurses

---

**16 NCAC 06D .0402** (a rule in the North Carolina Administrative Code) requires every school district to “make available” an RN to plan and assess for the health needs of students



# Eligibility

---

Standards set by the State Board of Education (SBE) say you must:

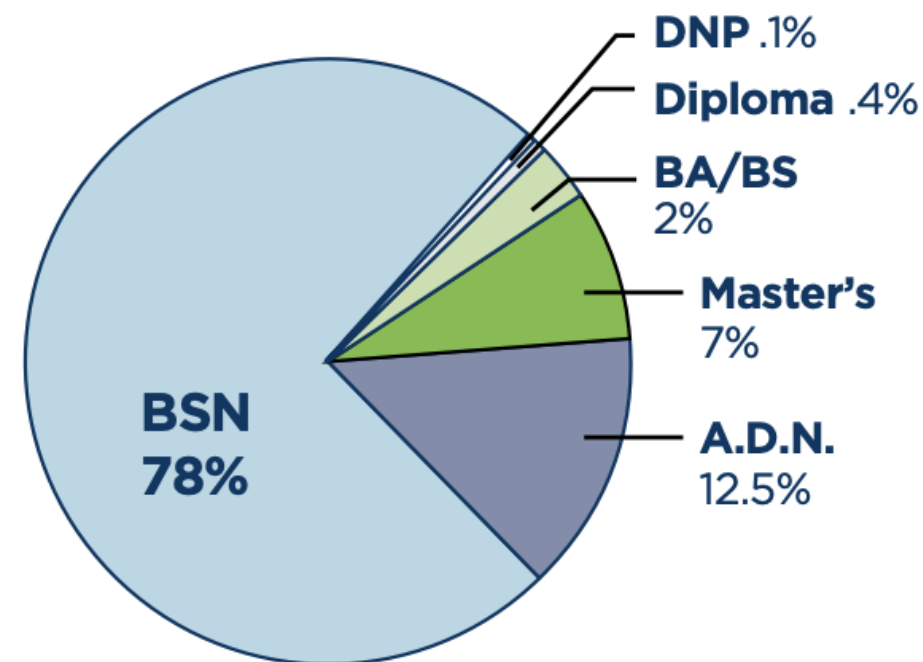
- Be a registered nurse (RN) with an unrestricted license
- Obtain national certification in school nursing within 3 yrs. of hire
  - National Board for Certification of School Nurses (NBCSN) requires a BSN for certification



## School Nurse Educational Preparation

School nurses are Registered Nurses (RN) with varied educational preparation. In addition to being a RN, national certification in school nursing is the standard by which North Carolina school nurses are assured to have the advanced knowledge and skills required in this independent specialty practice.

A baccalaureate is the minimum degree required for certification eligibility. At the close of the 2023-2024 school year, 51% of school nurses were nationally certified. NC school nurse degree status is indicated in the following graph.

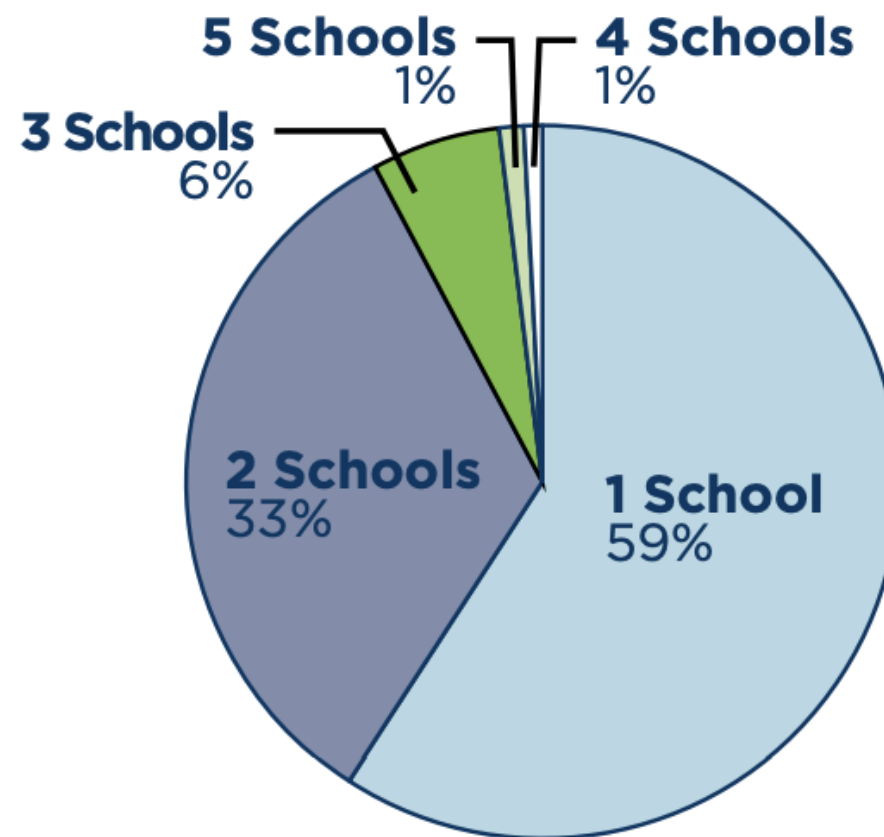






**Does every school in NC have its own full-time school nurse?**

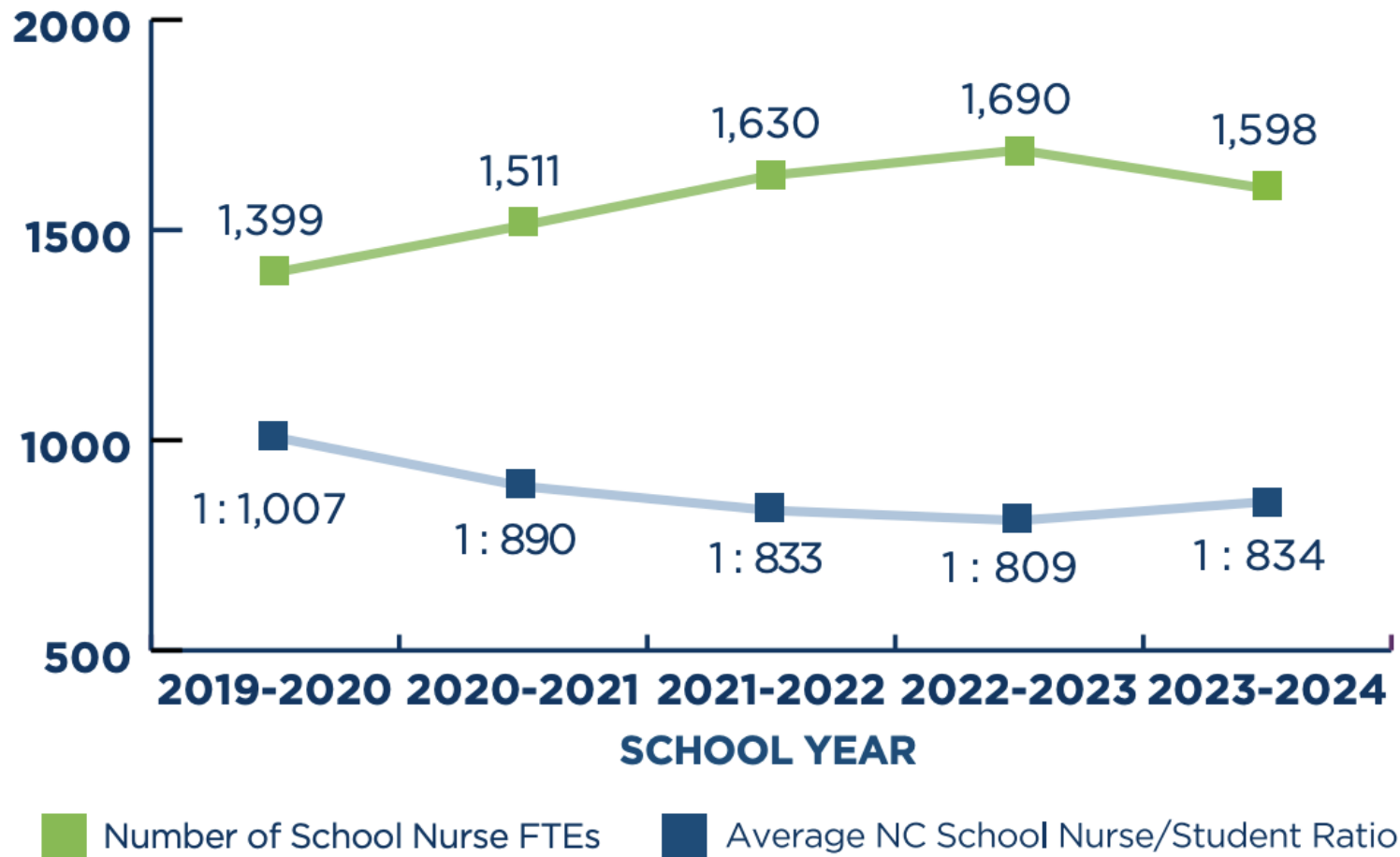
## Percent of School Nurses that Serve 1-5 Schools



Screenshot taken from the NCDHHS 2023-2024 North Carolina Annual School Health Services Report Brochure, available at <https://www.ncdhhs.gov/2023-24-psu-0/download?attachment>



## School Nurse Staffing and Nurse-to-Students Ratios\*



\*Note there were 96 positions vacant for longer than 6 months during 2023-2024



In the 2023-2024  
school year, NC  
school nurses  
reported

---

student encounters.





In the 2023-2024  
school year, NC  
school nurses  
reported  
**2,975,499**  
student encounters.





In the 2023-2024 year,  
14% of students received  
school nurse services  
related to a chronic condition

What were the top 5 most common chronic conditions?



2023-2024 Most Common Chronic Conditions	
Asthma	66,084
ADD/ADHD	36,441
Severe Allergies	32,147
Nonspecific Emotional/Behavioral/Psychiatric	11,914
Autism Spectrum Disorders (ASD)	9,410

Screenshot taken from the NCDHHS 2023-2024 North Carolina Annual School Health Services Report Brochure, available at <https://www.ncdhhs.gov/2023-24-psu-0/download?attachment>

# Revisiting Consent to Care Issues

---



A photograph of three teenagers walking on a city street. On the left, a young woman with long brown hair wears a black and white striped long-sleeved shirt and light-colored pants, carrying a black bag. In the middle, a young woman with glasses and blonde hair wears a white t-shirt and dark shorts, with a blue and yellow jacket draped over her shoulders. On the right, a young man with long brown hair wears a red sweatshirt and is playfully lifting his right leg. The background shows a city street with buildings and a street lamp. A large white graphic of the state of Washington is overlaid on the left side of the image.

# Minor's Consent in Schools

Typically, not an option for consent to care in the school setting. *Why?*

- School nurses practice independently- usually no connection to a physician
- Type of services that can be accessed under the minor's consent law usually fall outside the scope of school nursing care



# Parental Consent Typically Required

In 2023, the Parents' Bill of Rights created G.S. 115C-76.45(a)(1), which requires school districts to adopt procedures for notifying parents as follows:

*“At the beginning of each school year, notice of each health care service offered at his or her child's school and **the means for the parent to provide consent** for any specific service.”*

# Parental Consent Typically Required, cont.

---

Parent, guardian, or person standing *in loco parentis* (PILP)

Exceptions for urgent/emergency care:

- G.S. 115C-375.1: allows certain school staff (including school nurses) to provide emergency care, first aid, and “lifesaving techniques”
- G.S. 90-21.1: allows physicians (or those under their direction) to deliver emergency care without consent in limited, specific situations
  - *E.g., in an ED; this is not likely going to be used in the school setting*



Refresher:  
Is this person a  
PILP who can  
consent to care  
for a child?

---

School principal  
(yes or no?)



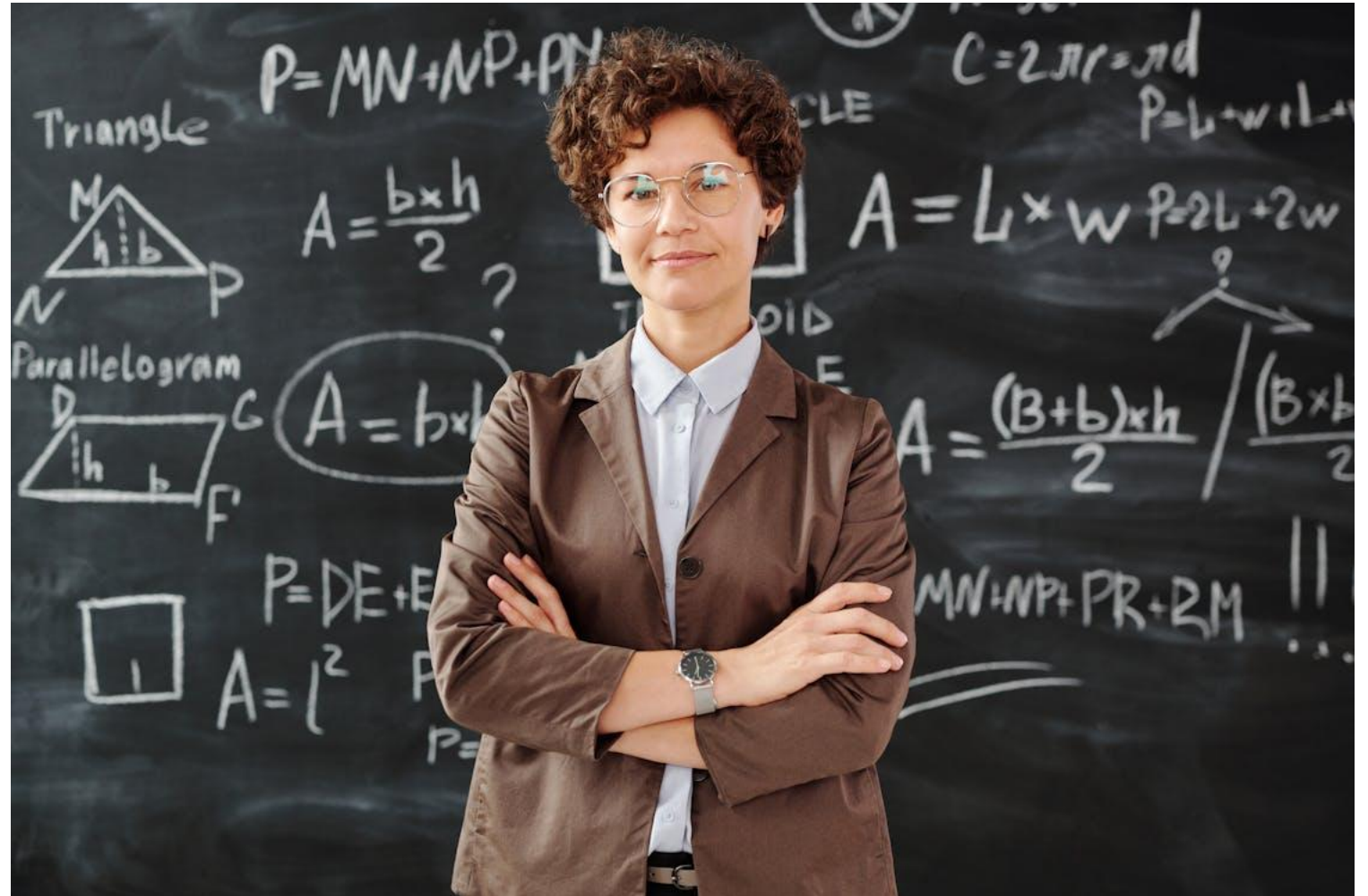




Refresher:  
Is this person a  
PILP who can  
consent to care  
for a child?

---

School teacher  
(yes or no?)





Refresher:  
Is this person a  
PILP who can  
consent to care  
for a child?

---

School athletic coach whose  
job involves driving kids in a  
school bus to away games  
and tournaments  
(yes or no?)





Refresher:  
Is this person a  
PILP who can  
consent to care  
for a child?

---

Child's foster parent  
(yes or no?)








## The Parents' Bill of Rights: Grey Areas



General rule (some exceptions):

health care practitioners (which includes nurses) cannot **“provide, solicit, or arrange for treatment”** of a minor without prior parental consent (written, oral, etc.)



## Referrals v. Providing Information

*(Without Prior  
Parental Consent)*

### Where's the line?

- I think of a “referral” as a formal hand-off between providers
- Pre-made information sheets with multiple resources listed may be a good option
- Be mindful of any school/district policies in this area, particularly around information related to abortion and STI services

# Assessments

Are they “treatment”  
that requires prior  
parental consent?





## Definition of “treatment” under the Parents’ Bill of Rights:

*Any medical procedure or treatment, including X-rays, the administration of drugs, blood transfusions, use of anesthetics, and laboratory or other diagnostic procedures employed by or ordered by a health care practitioner, that is used, employed, or ordered to be used or employed commensurate with the exercise of reasonable care and equal to the standards of medical practice normally employed in the community where the health care practitioner administers treatment to the minor child.*

# Assessments, cont.

“Assessment” not a defined term in NC laws governing health care

Might include:

- Taking a temperature
- Visual observations (child appears lethargic, sweaty, pupils dilated, etc.)
- Auditory observations (hearing a cough, wheezing, etc.)
- And much more

Could be a non-issue if assessment is already folded into school’s parental consent process and parent gave consent- but that’s not always the case

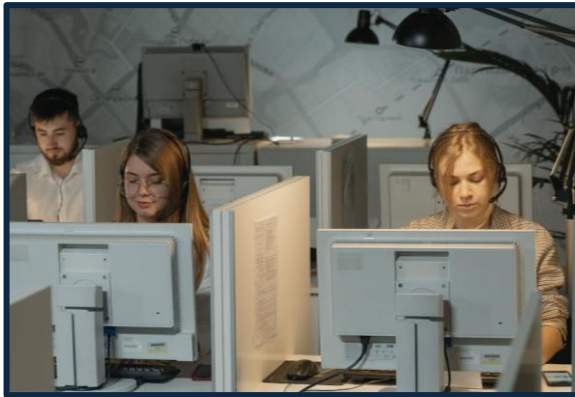
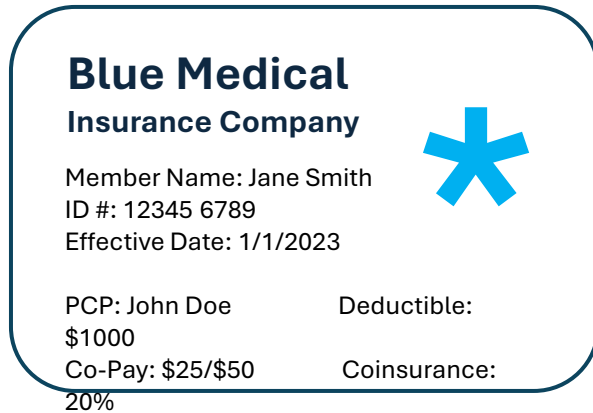
# Challenges with Information Sharing:

---

HIPAA + FERPA



# Who Must Comply with HIPAA?



A covered entity (CE) is the name for entities that are regulated- or “*covered*”- by HIPAA and must comply with HIPAA’s requirements

There are 3 types of CEs:

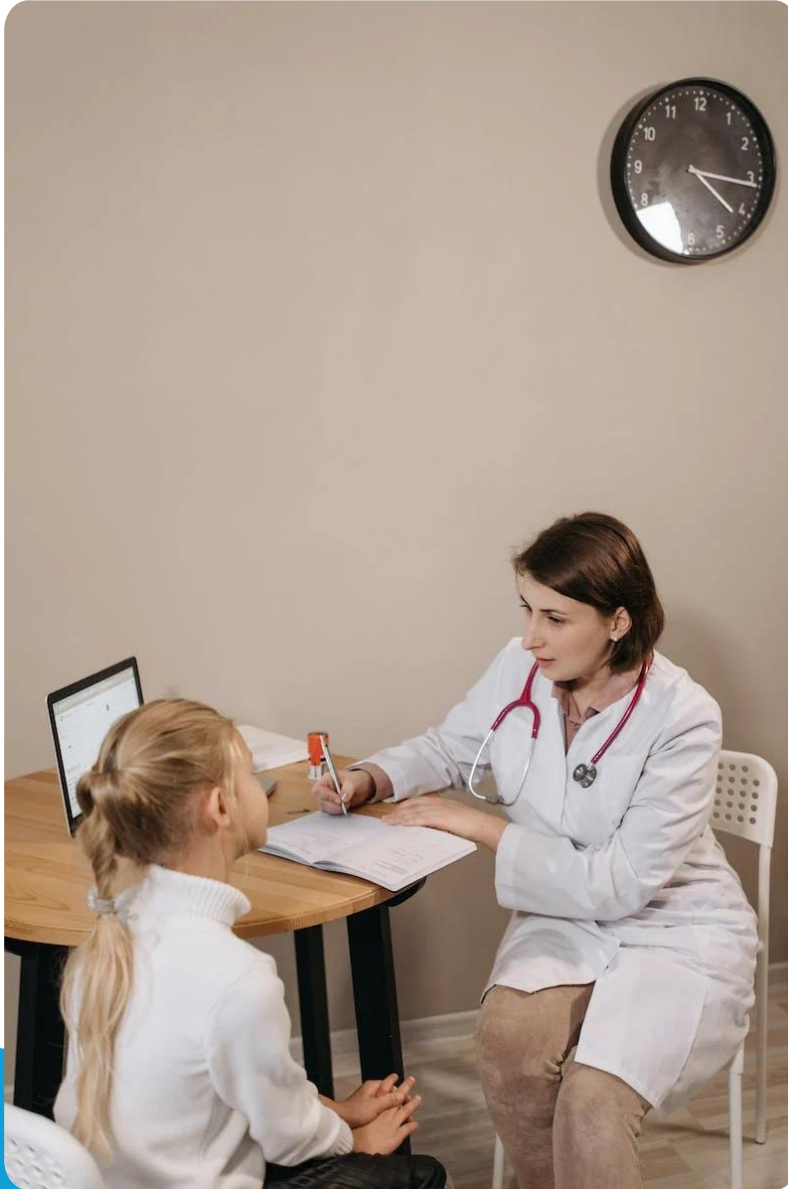
- Health plans (insurance)
- Covered health care providers
- Health care clearinghouses



# Who Must Comply with FERPA?

Educational agencies and institutions that receive funding from the U.S. Dept. of Education

- Includes public schools (“traditional,” charter, etc.)
- Usually excludes private schools



Which law are  
school nurses  
typically subject to,  
HIPAA or FERPA?

# School Nurses: Who Is FERPA Covered?

---

Nurse employed by a school/school district that receives federal funds

- **Yes**, must comply with FERPA as a school/district employee

Nurse employed by a 3<sup>rd</sup> party (e.g., the local health department) and providing school nurse services under contract

- **Yes**, must comply with FERPA if the nurse is providing services that the school/district would otherwise have to hire someone to provide and **is working under the direction of the school/district**- but check the contract for clarity on the status of these nurses! If the contract is not clear, this should be discussed with the school district to ensure everyone is on the same page.

Nurse employed at a school-based health clinic

- **Maybe**- whether the nurse must comply with HIPAA or FERPA depends on who employs the nurse and the relationship between the health clinic and the school/school district



# What Information Does FERPA Protect?

---

**PII** = Personally Identifiable Information

FERPA protects PII kept in a student's **education record**

- Education records are those that are directly related to the student and maintained by the school or a party acting on behalf of the school

Disclosure of PII in a manner not permitted under FERPA can result in penalties such as inability to share PII with certain parties and loss of federal funding



# PII: What It Includes

PII includes, but is not limited to, the following information in an education record:

- Names (of the student or their family members)
- Address
- Personal identifiers, such as SSN, student number, etc.
- Other indirect identifiers, such as date of birth, place of birth, parent's maiden name, etc.
- Information that, alone or in combination, can be linked to a specific student in a way that would allow a reasonable person in the school community to identify the student
- Information requested by someone who the school reasonably believes knows the student's identity



Is a student's health information- e.g., their immunization record- PII under FERPA?

---



# Student Health Information

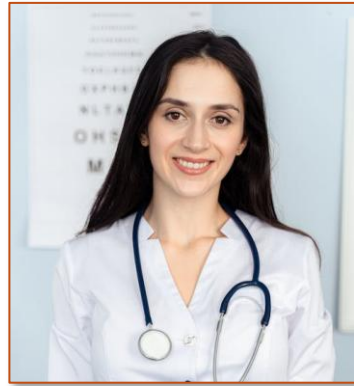
Student health information-  
school nurse notes, immunization  
records, etc.- is typically  
considered PII

- *Why?* Because it's identifying information about a specific student that is usually stored and kept in the student's education record

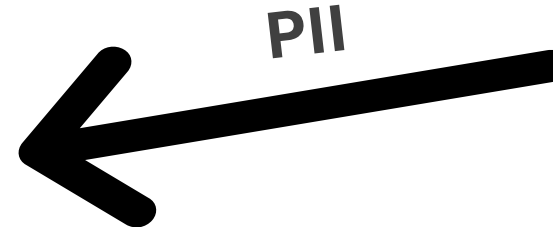


# How FERPA Covered School Nurses Can Share Information with Others

Hospital, private provider,  
local health department,  
etc. subject to HIPAA

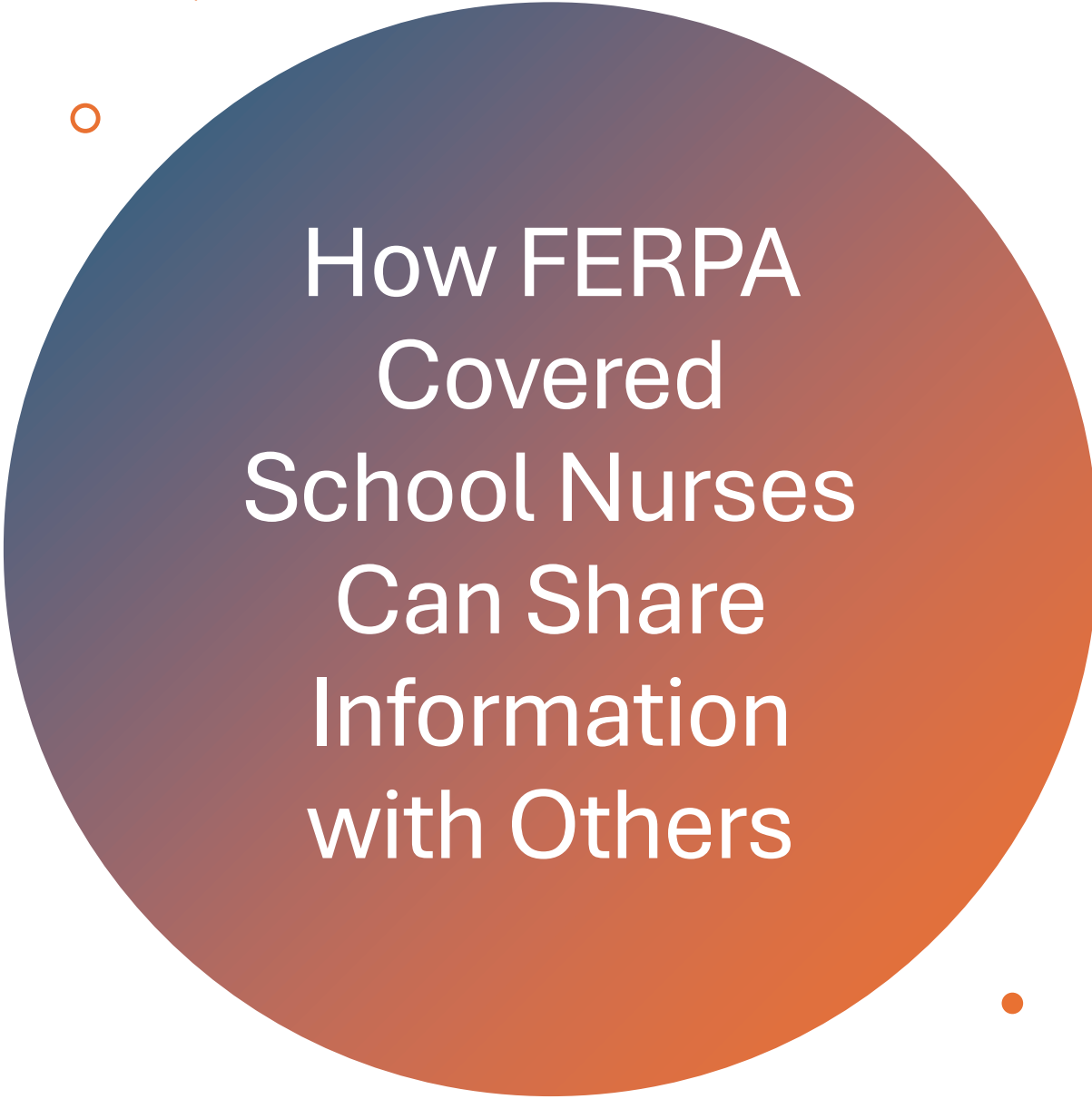



Other parties (e.g., the  
student's teacher,  
department of social  
services)



School nurse subject to  
FERPA





# How FERPA Covered School Nurses Can Share Information with Others

Compared to HIPAA, FERPA offers fewer/narrower pathways for sharing information

- ... but that does not mean that information sharing is impossible!

# How FERPA Covered School Nurses Can Share Information with Others: 4 Examples

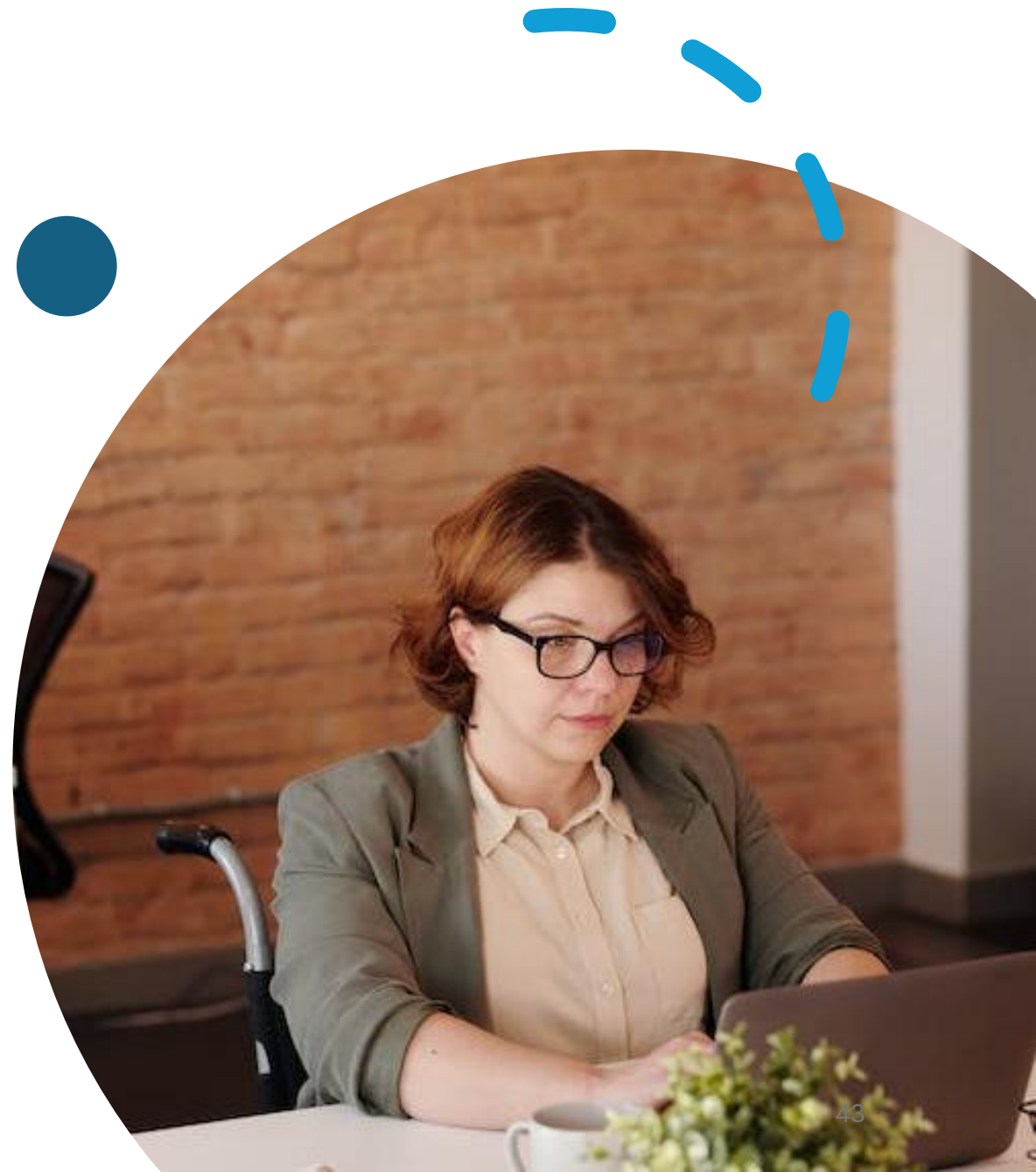
<b>With consent</b>	A FERPA covered school nurse can share a student's PII with another party- including an outside health care provider- with consent. The consent form must meet the requirements of FERPA (specify which records will be shared, the purpose of the disclosure, the recipient of the PII, be signed and dated by student's parent).
<b>To other school staff with a legitimate educational interest</b>	A FERPA covered school nurse can share a student's PII with another school employee- without first obtaining consent- if that employee has a "legitimate educational interest" (that is, the information is necessary for the school employee to do their job).
<b>To protect health and safety of the student or others</b>	A FERPA covered school nurse can disclose PII when doing so is necessary to protect the health and safety of the student or another person. The nurse must have a "rational basis" for determining that the disclosure is necessary and can share the PII with any person whose knowledge of the information is necessary to protect the student/someone else's health and safety. *May apply to some situations where disclosing PII is necessary as part of making a report to DSS of abuse, neglect, or dependency.
<b>To DSS for a child in foster care</b>	FERPA allows the disclosure of PII- without parental consent- to a DSS caseworker authorized to access the child's case plan, but only when DSS is legally responsible for the child.

# Documenting Disclosures of PII

When a school discloses PII, it must document the disclosure (HIPAA has a similar requirement)

- Does not apply if disclosure was made with consent
- Does apply if disclosure made to school staff with a legitimate educational interest or to protect health and safety of the student or others

School nurses should ask their school about its process for documenting disclosures





# Limits on Redisclosing PII

---

Generally, a recipient of PII must:

- Only use the PII for the purpose for which it was disclosed
- Not redisclose the PII without prior consent of the student's parent



## Image References

Images included in this presentation are from Pexels ([www.pexels.com](https://www.pexels.com)) and were last accessed on Nov. 7, 2025.

Additional information about the license and use of images from Pexels can be found here:

<https://www.pexels.com/license/>.

# Questions?

---

Thank you for your time.

If you have additional questions at a later date, please send me an email or give me call.

Email (preferred):  
[Kirsten@sog.unc.edu](mailto:Kirsten@sog.unc.edu)

Office: 919-966-4210

