

# Statement of Factual and Policy Basis and Summary of Comments/Responses

## Maine Department of Education

### Department of Education Chapter 40: Rule for Medication Administration in Maine Schools

#### Factual and Policy Basis:

This rule provides directions to public and private schools approved pursuant to 20-A MRSA §2902 in the administration of medication to students during the students' attendance in school programs. It is to assist school administrative units in implementing the provision of the medication statute [20-MRSA §254(5)(A-D)] that provides direction for training of unlicensed school personnel in the administration of medication, requires that students be allowed to carry and self-administer prescribed emergency medications; specifically, asthma inhalers, epinephrine auto-injectors, or prescribed medications or devices for the management of diabetes with health care provider approval and school nurse assessment demonstrating competency. It provides direction for students to use sunscreen as well as provides guidelines for schools who intend to make naloxone available in the case of suspected opioid overdose.

The Department is proposing the current amendments to the rule to comply with statutory changes related to sunscreen and naloxone and improve practices of medication administration in schools statewide.

#### Comments and Responses:

The deadline for submission of written comments was December 3, 2021. Eleven (11) sets of written comments were submitted by that date and there were three comments given orally during the public hearing. Written comments were received from the following:

#### **General Comments**

Date	Name	Comment Summary	Department Response
11/22/2021	Written Vicki Wallack, Maine School Management Association	In support of Chapter 40, Rule for Medication Administration in Maine Schools, and presented on behalf of the Maine School Boards Association and Maine School Superintendents Association.	<i>No change as a result of this comment.</i>

#### **1. Definitions**

No comments received related to this section.

#### **2. Administering Medications in a School Setting**

Date	Name	Comment Summary	Department Response
10/27/2021	Written, Ron Langevin, RN	I'd propose adding verbal permission for medication administration being allowable from a parent until they are able to physically sign. Most of our students are brought to school via transportation and some from some distance (one student is coming from over 2 hours away) which creates issues for parents being able to get here in a timely fashion and is even more difficult for students in residential programs as they are not home with parents either.	<p>Verbal orders are routinely provided by medical providers and the following is published on the Maine State Board of Nursing website: Nurses may accept physician orders via telephone from office personnel designated by the physician. In receiving orders from physician offices, nurses are responsible for recognizing the appropriateness of the order with respect to the plan of care, and for implementing the order or obtaining clarification. For this reason, I think it is appropriate to allow for verbal permission from parents if needed. Written consent is preferred</p> <p><i>Change made as a result of this comment (1)</i></p>
10/28/2021	Written, Melanie Lord	I have 3 kids with seizure disorders with nasal rescue medications. One has permission to self-carry as he plays sports and is on school grounds after I am gone for the day. Can nasal seizure medications be added to self-carry as glucagon and epi-pens?	<p>There are currently national standards and accepted practice in the self-carrying of epinephrine, inhalers, and diabetes management. No such standard exists for other conditions or medications.</p> <p>A student with a seizure plan and emergency medication should also have access to the needed treatment during after school activities.</p> <p>Will add language that allows for flexibility for nurses and families.</p> <p><i>Change made as a result of this comment. (2)</i></p>
	Written, Kim Pomeroy, RN	Appears to limit the emergency medications a student may carry and self-administer to two items--inhaled medications for asthma and epinephrine auto-injectors. The wording of this section, along with the lack of any mention of other emergency medications, implies that any other medications for any other condition may not be carried and/or self-administered by a student. Specifically, medications carried and used by students with diabetes, being	<p>There are currently national standards and accepted practice in the self-carrying of epinephrine, inhalers, and diabetes management. No such standard exists for other conditions or medications.</p> <p>Will add language that allows for flexibility for nurses and families.</p> <p><i>Change made as a result of this comment. (2)</i></p>

		neither asthma medication inhalers or epinephrine auto-injectors, effectively prohibits the use of insulin, glucose preparations, and glucagon. If conditions and medications are going to be listed, the listings need to include ALL conditions with potential life-threatening complications and ALL the medications used to manage such complications such as glucagon for diabetes, hyperinsulinemia and other disorders capable of inducing low blood sugar levels; anti-seizure, barbiturate, and sedative medications used to stop seizures in epilepsy and other seizure disorders; insulin to manage diabetes and other conditions causes dangerously high blood sugar levels. In lieu listing conditions and medications allowed, a clear statement indicating these rules apply to any medication or treatment required to treat life-threatening complications of any illness should be included.	
11/22/2021	Verbal-Krissy Lynne, parent	How will the rule affect my son who has been trained to self-administer?	According to this rule, section 2.C.v students may possess and self-administer certain medications under certain conditions.  <i>No change made as a result of this comment.</i>
11/22/2021	Verbal-Susan Anderson, RN, Chewonki	Who is permitted to provide the sunscreen? Does the school have to provide it? Can a school nurse give a dose of medical marijuana during the school day?	According to the rule, section 2.C.vi there is no expectation that the school with apply or supply the sunscreen a student uses.  According to Section 2.C.G.iii only the parent/guardian may administer medical marijuana.  <i>No changes made as a result of this comment.</i>

### 3. Required Training of Unlicensed School Personnel to Administer Medication

Date	Name	Comment Summary	Department Response
------	------	-----------------	---------------------

12/3/2021	Written, Robert White, Sweetser	Some school staff who do not hold professional licenses to administer medications may hold certification from Maine DHHS as Certified Residential Medication Aides, which requires initial training and certification as well as period retraining and recertification. Maintenance of active CRMA certification should be deemed to constitute compliance with the medication administration training and retraining requirements	The Certified Residential Medication Aide (CRMA) training is designed for unlicensed workers in order to work in assisted housing programs rather than schools. Because the training for CRMA covers much of the required content for school medication administration it could be considered on a case by case basis. However, CRMA training does not contain content specific to the school setting. See 3.C.i-xiv.  <i>Change made as a result of this comment. (3)</i>
-----------	------------------------------------------	------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------

#### 4. Procedures for Medication Administration on School Field Trips/Off-Campus Events

Date	Name	Comment Summary	Department Response
12/2/2021	Written, Laurie Porter, RN	Concern about proposed changes to field trips. This is in regard to the duplicate packaging. While this may be best practice, it seems a hardship for parents and for pharmacies to create duplicate containers. These stakeholders may want to have some input. Have we asked pharmacies about the impact or talked with parents about their feedback on this proposed change? Will there be a cost associated with duplicate containers? Previously I worked in a different state and found that pharmacies did not want to create duplicate containers especially for scheduled medications.	The rule making process allows for public input of any interested parties. There were no comments received from the stakeholders indicated.  <i>No change as a result of this comment.</i>
12/3/2021	Written, Chris Balchunas, RN	Please consider adding stock albuterol inhalers for schools. Also, a way for schools to obtain it is a less costly way than the School Health Company at about \$90. and disposable cardboard spacers at \$100. A person with a prescription	Schools may stock certain medications (albuterol, epinephrine) so long as they have a written order from their school health advisor and parental permission.

		<p>pays around \$10.00 at a local pharmacy.</p> <p>Many of my parents cannot pay for an inhaler both at school and at home. Sometimes the student needs the inhaler just one time a year and very urgently and did not bring it, that one day.</p> <p>Other states permit school nurses to have stock inhalers like EpiPens.</p> <p>This is a link to the American Foundation of Allergy and Asthma endorsing it.  <a href="https://www.aafa.org/albuterol-in-schools/">https://www.aafa.org/albuterol-in-schools/</a></p>	<p>The cost of supplies and medications is not within the scope of this rule.</p> <p><i>No change made as a result of this comment.</i></p>
12/3/2021	Written, Emily Hanley, Spurwink Services	<p>Spurwink would request this rule be considered further, and whether it aligns with general pharmacological practice. "Duplicate medication containers shall be obtained from the pharmacy to be used for field trips" This appears to be in opposition of general pharmacy practice; generally, pharmacies do not provide duplicate medication bottles.</p>	<p>The rule making process allows for public input of any interested parties. There were no comments received from the stakeholders indicated as this is standard practice for school medication.</p>
12/3/2021	Written, Robert White, Spurwink	<p>2. With regard to procedures for field trips, it should suffice if staff training documentation, parental permissions and physician orders are on file at the school rather than having to be on hand at the trip site. It would not appear that there is need to have this supporting documentation immediately on hand at the site of the trip.</p> <p>3. Obtaining duplicate medication containers may be an ideal practice but may not be feasible in all situations. A safe and appropriate practice should be allowed of having the school nurse or trained staff pack medications for transport together with complete information including the student's name and date of birth, the medication name, the date, time, dosage and route for administration, all pertinent administration directions and the name and</p>	<p>2. Documentation of training should be on file at the school.</p> <p>3. The rule making process allows for public input of any interested parties. There were no comments received from the stakeholders indicated as this is standard practice for school medication.</p> <p>4. Administering medication within 30 minutes of the prescribed time is standard practice in a school setting and is in line with the Maine DOE Training Manual for Medication Administration.</p> <p><i>Change made as a result of this comment (4).</i></p>

		<p>telephone number of the ordering practitioner.</p> <p>4. The permissible time window for administering a medication (in the section on field trips) should be one hour before or after the stated time it is due, as specified in the CRMA standards of Maine DHHS, not 30 minutes as set out in the proposed rule.</p>	
--	--	----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	--

**5. Epinephrine Guidelines**

No comments received related to this section.

**6. Naloxone Guidelines**

No comments received related to this section.

**7. Reporting**

No comments received related to this section.

**Staff Comments/Changes**

Multiple questions have come from the filed asking for clarification on whether CBD oil is considered marijuana. The rule will assist in the implementation by making a change to the language to be clear. The answer consistently has been that based on the information we have, CBD oil is considered an edible form of marijuana in Maine and is therefore, not legal for anyone under the age of 21, unless they have a medical certificate for marijuana. *Change made as a result of this comment (5)*

In the self-carry section of this rule, 2.C.v.1 insulin is mentioned specifically. The management of diabetes includes more than just insulin and is it established practice that people carry all of the needed treatments with them. Will clarify that with a re-wording. *Change made as a result of this comment (6)*

**Changes Made as a Result of Above Comments (italics indicate added language)**

(1)

2. C. ii. 1

A current written request from the parent for any medication administered to a student during school or a school sponsored event. *Verbal permission may be used if needed due to extenuating*

*circumstances. For this purpose, explicit verbal permission from the parent must include the medication requested, dose, route, and time interval to be given. This is to be documented in the student health record and valid for one day only.*

(2)

2.C.v.(adding 4)

*Recognizing that there are many unique medical needs of children. If it is determined within the Individualized Health Plan that self-carrying a specific medication not previously addressed in this rule is necessary, a school nurse may allow it so long as the conditions in 1-3 are met.*

(3)

3. D.

The trainer shall document the training and the competency of school personnel trained. Based upon the documentation of training and competency of unlicensed personnel to administer medication, the school nurse shall make a recommendation to the Superintendent concerning the authorization of such persons to administer medication to students. *For UAP that may hold separate certification or training in medication administration, the trainer may determine an abbreviated training is sufficient based on their current knowledge and skill level. This is to be documented with the training and competency.*

(4)

**4.A. Training.** Any unlicensed personnel administering medications, both prescription and over the counter, must hold documentation of their training must have training documentation on file at the school.

(5)

2.G.

Reasonable accommodations must be made for students who hold written certification for the medical use of marijuana under Title 22, section 2423-B. [20-A §6306] For the purposes of this rule cannabidiol (CBD) oil is a marijuana product and subject to the same limitations. Medical marijuana may only be possessed and administered under the following conditions:

i. The student requires a dose during the school day.

ii. It is possessed by the parent/guardian or caregiver only.

iii. Only the parent/guardian or caregiver may administer medical marijuana – it cannot be done by, or delegated to, a school employee or any other person than the primary caregiver.

(6)

2.C.v.1. Written approval is received from the student's health care provider stating that the student has the knowledge and skills to safely possess and use an inhaled asthma medication, ~~or an epinephrine auto-injector, or insulin~~ *other medication related to the care of their insulin dependent diabetes.*