



WEST VIRGINIA SECRETARY OF STATE

MAC WARNER

ADMINISTRATIVE LAW DIVISION

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Office of West Virginia
Secretary Of State

**NOTICE OF FINAL FILING AND ADOPTION OF A LEGISLATIVE EXEMPT, INTERPRETIVE OR PROCEDURAL
RULE**

AGENCY: Education TITLE-SERIES: 126-025A

RULE TYPE: Legislative Exempt Amendment to Existing Rule: Yes Repeal of existing rule: No

RULE NAME: Standards for Basic and Specialized Health Care
Procedures and Standards for the Possession and
Use of Medical Cannabis By a Student (2422.7)

CITE STATUTORY AUTHORITY: W. Va. Code §§29A-3B-1, et seq.; W. Va. Board of Education v. Hechler,
180 W. Va. 451, 376 S.E.2d 839 (1988); and, W. Va. Bd. of Educ. v. Bd. of
Educ., 239 W. Va. 705, 806 S.E. 2d 136 (2017)

This rule is filed with the Secretary of State. This rule becomes effective on the following date:

September 12, 2022

BY CHOOSING 'YES', I ATTEST THAT THE PREVIOUS STATEMENT IS TRUE AND CORRECT.

Yes

Michele L Blatt -- By my signature, I certify that I am the person authorized to file legislative rules, in accordance with West Virginia Code §29A-3-11 and §39A-3-2.

126CSR25A

**TITLE 126
LEGISLATIVE RULE
BOARD OF EDUCATION**

**SERIES 25A
STANDARDS FOR BASIC AND SPECIALIZED HEALTH CARE PROCEDURES AND
STANDARDS FOR THE POSSESSION AND USE OF MEDICAL CANNABIS BY A STUDENT (2422.7)**

§126-25A-1. General.

1.1. Scope. -- This legislative rule establishes standards for certified school registered nurses (RNs), licensed practical nurses (LPNs), and other qualified school personnel to address student health needs. This rule also establishes standards for possession and use of medical cannabis by students.

1.2. Authority. -- W. Va. Constitution, Article XII, §2, W. Va. Code §§16A-15-5(1), 18-2-5, 18-5-22, 18-5-22a, 18-5-22b, 18-5-22c(a)-(j), 18-5-22d, 18-2K-1, 30-7-1, et seq., and 30-7A-1, et seq.

1.3. Filing Date. -- August 11, 2022.

1.4. Effective Date. -- September 12, 2022.

1.5. Repeal of Former Rule. -- This legislative rule amends W. Va. 126CSR25A, Policy 2422.7, Standards for Basic and Specialized Health Care Procedures (Policy 2422.7), filed May 13, 2021, and effective July 1, 2021.

§126-25A-2. Purpose.

2.1. Good health is essential to student learning. This policy establishes the standards that follow students with health care needs, including medication administration for students and the possession and use of medical cannabis by students in the West Virginia public education system. In addition to the standards outlined in this policy, county boards of education (county board) must comply with the Basic and Specialized Health Care Procedure Manual for West Virginia Public Schools designed for use by certified school RNs in West Virginia to assure the safe, consistent provision of health care guided by the laws and practice standards for West Virginia nurses as referenced in W. Va. Code §30-7-1, et seq. and §30-7A-1, et seq. and by the West Virginia Board of Examiners for Registered Professional Nurses and the West Virginia State Board of Examiners for Licensed Practical Nurses. This policy shall not impact the operating procedures of School-Based Health Centers. It is not the intent of this policy to interfere with existing policies and procedures of health care providers managing School-Based Health Centers. County boards shall develop or amend policies to meet or exceed the standards outlined in W. Va. Code and this policy.

§126-25A-3. Definitions.

3.1. Administrators' Designees. School personnel as defined in W. Va. Code §18-5-22, excluding the certified school registered nurse (RN) or contracted provider of nursing services who are designated by the building administrators, are trained to administer non-prescribed over-the-counter (OTC) medication and agree to administer non-prescribed OTC medications when county policy allows such practice.

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3.2. Basic Health Care Procedures. Procedures performed by school personnel to ensure and meet students' health and safety needs.

3.3. Cardiopulmonary Resuscitation (CPR). A valid certificate from an approved training program requiring a return demonstration to an instructor for adult, child, and/or infant CPR, e.g., American Heart Association/American Red Cross.

3.4. Caregiver. A person who has met the requirements of the Medical Cannabis Act, W. Va. Code §§16A-1-1, et seq. to deliver and assist in the administration of medical cannabis for a designated patient who has been issued a medical cannabis identification card by the West Virginia Department of Health and Human Resources, Bureau for Public Health, and who has been issued a physician certification to use medical cannabis as part of the treatment of a serious medical condition.

3.5. Certified School Registered Nurse (RN). Licensed by the West Virginia Board of Examiners for Registered Professional Nurses (W. Va. Code §30-7-1, et seq.) who has completed a West Virginia Department of Education (WVDE) approved program as defined in the W. Va. 126CSR114, Policy 5100, Approval of Educator Preparation Programs, and meets the requirements for certification contained in W. Va. 126CSR136, Policy 5202, Minimum Requirements for the Licensure of Professional/Paraprofessional Personnel and Advanced Salary Classifications (Policy 5202). The county board or the county health department must employ the certified school registered nurse RN specified in W. Va. Code §18-5-22.

3.6. Contracted Health Care Provider. Licensed health care provider who provides health care services under contract with county boards. Health care services may be contracted after the ratio of one nurse for every 1,500 students, kindergarten through seventh grade, is provided to county schools.

3.7. Contracted School Registered Nurse (RN). Employee of a public health department providing services under a contract with a county board to provide services considered equivalent to those required in W. Va. Code §18-5-22.

3.8. Designated Qualified Personnel. Employee or contracted provider who agrees to administer prescribed medications, authorized by the administrator/principal, completes training by the certified school RN, and is qualified for the delegation of the administration of prescribed medications by the certified school RN. Designated qualified personnel must also meet the specifications in W. Va. Code §18-5-22(d) and (e), which includes delegation of specialized health care procedures and medications to aides, and medication only to teachers and secretaries.

3.9. Emergency Action Plan. Written plan of action for health care interventions based on the assessment of the certified school RN and/or health care provider intended to be implemented by school personnel to ensure the safety and welfare of students requiring health care in the school setting.

3.10. First Aid. Training course in the emergency treatment administered to an injured or sick person before professional medical care is available. The certified school RN will coordinate this training.

3.11. Health Assessment. Process by which the certified school RN obtains student health data. This assessment is comprehensive, systematic, and continuous to allow the certified school RN to make a nursing diagnosis and plan for interventions with the student, family, school staff, and licensed prescriber

when necessary.

3.12. Health Care Plan. Written document developed by the certified school RN, which includes a nursing diagnosis, is individualized to the student's health needs, and consists of specific goals and interventions delineating the school nursing actions, delegated procedures, and student's role in self-care.

3.13. Licensed Health Care Provider. Medical doctor or doctor of osteopathy, podiatrist, registered nurse, practical nurse, registered nurse practitioner, physician assistant, dentist, optometrist, pharmacist, or respiratory care professional licensed under W. Va. Code §30.

3.14. Licensed Practical Nurse (LPN). Person who has met all the requirements for licensure as a practical nurse and who engages in practical nursing under the direction of a Registered Professional Nurse as defined in W. Va. Code §30-7A-1, et seq. The LPN employed in a public school shall function under the supervision, assignment, and/or delegation of the certified school RN to perform nursing services (W. Va. Code §18A-4-8).

3.15. Licensed Prescriber. Licensed health care provider with authority to prescribe medication and health care procedures.

3.16. Medical Cannabis. Cannabis for certified medical use as set forth in the Medical Cannabis Act, W. Va. Code §§16A-1-1, et seq.

3.17. Medication Authorization Form. Form, inclusive of an order for prescribed medication, completed and signed by a licensed prescriber with a parent/guardian signature of permission to authorize medication administration to said parent's/guardian's child. The form must include the following: student name; date; allergies; medication name, dosage, time, and route; intended effect of medication; other medication(s) taken by the student; licensed prescriber and parent/guardian signature.

3.18. Non-prescribed Medication. Medication and food supplements approved by the Food and Drug Administration and may be obtained OTC without a prescription from a licensed prescriber.

3.19. Prescribed Medication. Medication with a written order signed by a licensed prescriber.

3.20. Performance Checklist. Tool used by the certified school RN to safely determine that designated school personnel meet the minimum standards required to perform necessary basic and/or specialized health care procedures.

3.21. Qualified. Ability to demonstrate competence and skills in the use of equipment and performance of techniques and procedures necessary to provide basic and/or specialized health care services for individuals with health needs and to demonstrate current knowledge of community emergency medical resources.

3.22. Related Services. Transportation and such developmental, corrective, and other supportive services as are required to assist an eligible exceptional student to benefit from education as defined in W. Va. 126CSR16, Policy 2419, Regulations for the Education of Students with Exceptionalities. The term includes, but is not limited to, audiology, speech and language pathology, psychological services, physical and/or occupational therapy, counseling/social services, school health services, early identification and assessment, medical services for diagnostic or evaluation purposes, and parent training.

3.23. Retrained. Proper demonstration and/or instruction, as deemed necessary by the certified school RN.

3.24. School-Based Health Centers. Clinics located in schools that: 1) are sponsored and operated by community-based health care organizations; 2) provide primary health care services (including but not limited to diagnosis and treatment of acute illness, management of chronic illness, physical exams, immunizations, and other preventive services) to students enrolled in the health center; and 3) follow state and federal laws, policies, procedures, and professional standards for the provision of medical care.

3.25. School Health Manager. Certified school RN who reviews and interprets medical data related to student health problems and coordinates all school health services.

3.26. School Personnel. Any school employee, as defined in W. Va. Code §18-5-22, who is not a licensed health care provider but has been designated, trained, and deemed competent by a certified school RN and approved by a school administrator to provide basic and/or specialized health care procedure(s) for West Virginia public school students. School personnel includes administrators, teachers, aides, and secretaries as defined in W. Va. Code §§18-1-1, 18A-4-8, and 18-5-22.

3.27. School-Related Events. Any curricular or co-curricular activity, as defined by W. Va. 126CSR42, Policy 2510, Assuring the Quality of Education: Regulations for Education Programs, that is conducted outside of the school environment and/or instructional day. Examples of curricular and co-curricular activities include the following: band and choral presentations, theater productions, science or social studies fairs, mathematics field days, career/technical student organizations' activities, or other activities that provide in-depth exploration or understanding of the content standards and objectives appropriate for students' grade levels.

3.28. Self-administration. Administration of medication by the student under the approval, assessment, and supervision of the certified school RN with a licensed prescriber order and parent/guardian permission. The self-administration of prescribed medication may also include medication taken by a student in an emergency or an acute situation (e.g., rescue inhaler, epinephrine, diabetic medication, etc.). The self-administration of medical cannabis by a student is prohibited on or in school property or at a school-related event.

3.29. Serious Medical Condition. Any condition diagnosed by a physician and specified in the Medical Cannabis Act, W. Va. Code §§16A-1-1, et seq., for which medical cannabis may be certified for use by a patient as part of a treatment for the condition.

3.30. Specialized Health Care Procedures. Procedures ordered by the student's licensed prescriber(s) requiring medical and/or health-related training for the individual who performs the procedures.

3.31. Stock Medications. Medication purchased by the school system under the authorization of a licensed prescriber with medical standing protocols and procedures for administration to students, staff, and other persons as allowable by code and policies, such as opioid antagonist and epinephrine.

3.32. Supervision of Designated School Personnel. Periodic on-site review and documentation by the certified school RN verifying the competence of that individual in performing basic and/or specialized health care procedures and maintaining appropriate records.

3.32.a. Direct Supervision. Providing availability for consultation and/or referral for appropriate assistance.

3.32.b. Indirect Supervision. Certified school RN being available to the qualified, designated school personnel either in person or through electronic means to provide necessary instruction, consultation, and/or referral for appropriate assistance.

3.33. Tele-health. Use of electronic information and telecommunications technologies to provide professional health care.

3.34. Training. Instruction and demonstration provided to designated school personnel to be qualified for the performance of basic and/or specialized health care procedures.

§126-25A-4. Training and Certification for Designated School Personnel.

4.1. Training Program. School personnel, who provide basic and/or specialized health care procedures for students with special health needs, shall undergo training and demonstrate competency in the performance of required training outlined in section 4.1. In addition, applicable basic and/or specialized training will be required for all school personnel performing health care procedures.

4.1.a. Required Training. All personnel defined in section 3.24 must be trained in:

4.1.a.1. handling and disposal of body fluids;

4.1.a.2. basic first aid;

4.1.a.3. CPR; and,

4.1.a.4. confidentiality.

4.1.a.4.A. School personnel performing basic health care procedures may be exempt from the required training of first aid and CPR if deemed unnecessary by the certified nurse RN, e.g., medication administration for a one-time school-related event/field trip.

4.1.b. Basic Training. Individualized training in the performance of any one or more basic health care procedures as applicable to employee job assignment.

4.1.c. Specialized Training. Individualized training in the performance of any one or more specialized health care procedures as applicable to employee job assignment.

4.2. A certified nurse RN must provide and/or coordinate training and retraining.

4.3. The certified nurse RN shall complete an assessment of the performance of each procedure. This assessment shall include completing a skills performance checklist, concerning changes in student health care needs, licensed prescriber's orders, and medical/health technology.

4.4. The certified school RN shall determine the category of direct or indirect supervision required in

each situation.

4.5. Simulation or use of training models shall be the preferred methods of training. The procedure's initial practice shall be simulated or performed on models rather than students, whenever possible.

4.6. School personnel shall be retrained, every two years on the performance of all basic and/or specialized health care procedures currently prescribed and being performed by the personnel.

4.7. School personnel will complete required training prior to performing any basic and/or specialized health care procedure.

4.7.a. Required training certification must assure:

4.7.a.1. completion of required training program stipulated for all employees as defined in section 4.1; and

4.7.a.2. demonstrated competence in the required training to be performed in section 4.1.a.

4.7.b. Basic and specialized certification must assure:

4.7.b.1. completion of required training program stipulated for all employees defined in section 4.1;

4.7.b.2. completion of training in all basic and/or specialized health care procedures to be performed; and

4.7.b.3. demonstrated competence based on a performance checklist.

4.8. The Basic and Specialized Health Care Procedure Manual for West Virginia Public Schools must be used to teach and train basic and specialized health care procedures. The training may be provided by:

4.8.a. certified school RNs;

4.8.b. career technical centers;

4.8.c. independent faculty approved by a certified nurse RN;

4.8.d. schools of nursing;

4.8.e. public health department;

4.8.f. licensed health care provider;

4.8.g. contracted school RN; or

4.8.h. contracted licensed health care provider.

§126-25A-5. System for School Admission and Care.

5.1. For students needing specialized health care procedures, the certified school RN shall assess the student, review the licensed prescriber's order, and assure implementation of needed health and safety procedures. This assessment shall be completed before initial school attendance and following any absence during which a health condition may have changed, necessitating reevaluation.

5.2. The licensed prescriber's orders are kept on file in the student's permanent educational record. These orders are valid for a maximum of one school year unless changed by the licensed prescriber.

5.3. Certified school RNs shall utilize the most current West Virginia Board of Examiners for Registered Professional Nurses Guidelines for Determining Acts that May be Delegated or Assigned by Licensed Nurses as the mechanism for determining assignment and/or delegation of any aspect of basic and/or specialized health care.

5.4. Certified school RNs shall validate and document student knowledge and skills related to prescribed medication self-administration.

§126-25A-6. Health Care Plan and Emergency Action Plan.

6.1. All students receiving specialized health care procedure(s) during the school day and school-related events shall require a health care plan.

6.2. The certified school RN shall prepare the health care plan based on assessment of the student and/or a written order by a licensed prescriber and in collaboration with the parent/guardian. The health care plan may be shared with other school personnel for legitimate educational reasons as indicated in The Family Education Rights and Privacy Act (FERPA) (20 U.S.C. §1232g; 34 CFR Part 99) such as, but not limited to, Individualized Education Program (IEP) Team, Section 504 of the Rehabilitation Act of 1973 (Section 504) Team, Student Assistance Team meetings, classroom teachers providing oversight and care to the student, and Medicaid billing, etc.

6.3. The health care plan shall guide the certified school RN's care of the student. The certified school RN will develop and revise the health care plan using best practices such as North American Nursing Diagnosis Association International nursing diagnosis. The health care plan will be reviewed and revised on an annual basis or as necessary with any change in the student's condition or provider's order.

6.4. The plan shall include:

- 6.4.a. nursing assessment;
- 6.4.b. nursing diagnosis;
- 6.4.c. goals and expected outcomes;
- 6.4.d. interventions; and
- 6.4.e. evaluation.

6.5. Emergency action plans may be included at the discretion of the certified school RN to guide

designated school personnel, classroom teachers, and school bus operators in providing emergency care and/or specialized health care procedures for students.

§126-25A-7. Quality Assurance.

7.1. In consultation with the Commissioner of the Bureau for Public Health as outlined in W. Va. Code §18-5-2 (c) and (j), the Basic and Specialized Health Care Procedure Manual for West Virginia Public Schools shall be utilized as the minimum standard for safe practice.

7.1.a. As medical practices change and new technology develop, other valid nursing resources may be used to ensure the standard of practice and safety of student care. The resources may include the Lippincott Manual of Nursing Practice by Williams and Wilkins and Managing the Chronic Health Needs in Child Care and Schools by the American Academy of Pediatrics.

7.2. The Basic and Specialized Health Care Procedure Manual for West Virginia Public Schools shall be reviewed and revised on a biennial basis or as deemed necessary by the West Virginia Council of School Nurses based on the needs assessments conducted by certified school RNs.

7.3. The Council of School Nurses shall meet at least bi-annually, or more frequently as deemed necessary by the Chair of the Council in consultation with the WVDE, for review of certification and training program(s) regarding school personnel designated to perform basic and/or specialized health care procedures.

7.4. The certified school RN shall participate in continuing education programs, which provide:

7.4.a. training related to new specialized health care procedures; and

7.4.b. staff development applicable to effective school health practice.

7.5. The certified school RN must develop a monitoring system with appropriate time frames to ensure safety and effective monitoring of the assignment and delegation of all basic and/or specialized health care procedures.

7.6. The certified school RN may utilize tele-health to provide school nursing services and consultation for all students, including those with specialized health care needs. Each county should develop procedures/protocols to provide a framework for the use of tele-health to ensure safety and delivery of quality care as permissible with the assistance of modern technology. The decision to utilize tele-health is at the discretion of the certified school RN based on nursing assessment, student needs, accessibility of equipment and services, etc., in collaboration with school administration to support the student and assistive technology during the tele-health session.

§126-25A-8. School Health Records.

8.1. Confidentiality and release of student health information and records shall be protected and maintained as outlined in W. Va. 126CSR94, Policy 4350, Procedures for Collection, Maintenance and Disclosure of Student Data and FERPA.

8.2. An individual record will be maintained for each student needing a specialized health care

procedure. It will include the date and time the procedure was performed, any notes on events and/or interactions, and the person's signature performing/supervising the procedure.

8.3. Certified school RNs and LPNs must use standardized nursing terminology when recording nursing notes to establish care standard documentation.

8.4. Student health records are educational records under FERPA guidelines.

8.4.a. Health records are considered highly confidential and access to it is decided among county and school teams including the school RN.

8.4.b. Storage of health records must ensure confidentiality and access as allowable by FERPA including legitimate educational reasons required by the Student Assistance Team (SAT), Section 504, IEP, student's classroom teacher, school bus operator, and others as determined by the county and school teams.

8.4.c. Student health records must be maintained two years from completion of the student's education.

8.4.d. Records to verify the implementation of federally funded programs and services and to demonstrate compliance with program requirements must be maintained in compliance with the appropriate regulations.

§126-25A-9. Staffing Requirements.

9.1. Certified school RNs must be employed to ensure adequate provision of services to students with complex health care needs. RNs have the authority and the ability to teach and supervise other persons to render selected health services and/or procedures. (W. Va. Code §18-5-22.)

9.2. The certified school RN must have a current license as a registered professional nurse in the State of West Virginia (W. Va. Code §30-7-1, et seq.). The school RN must be certified as a school RN, as outlined in Policy 5202. The certified school RN must be employed by the county board or the county health department (W. Va. Code §18-5-22) which contracts to provide equivalent services to county boards. Performance of professional nursing service means both independent nursing functions and health-related services which require specialized knowledge, judgment, and skills as governed by the West Virginia Nurse Practice Act (W. Va. Code §30-7-1, et seq.) and the National Association of School Nurses, Inc., Scope and Standards of Professional School Nursing Practice.

9.3. The certified school RN manages medical contacts, referrals, and interpretations of medical data. The certified school RN serves as the manager for health-related problems and decisions. In the role of manager, the certified school RN is responsible for certified school RN practice standards concerning health appraisal and health care planning.

9.4. School personnel, with the approval of the principal and the county board, may elect or in some cases be required to provide approved specialized health care procedures, and such procedures shall be delegated by the certified school RN as deemed appropriate. The certified school RN shall provide for training, retraining, and supervision, and, upon completion, certify the satisfactory level of competence before school personnel performs basic and/or specialized health care procedures. Qualified designated

school personnel may be deemed not qualified in the performance of delegated basic and/or specialized health care procedures based on the ongoing monitoring and supervision by the certified school RN.

9.5. The LPN must be currently licensed in the State of West Virginia (W. Va. Code §30-7A-1, et seq.) and must function under the supervision of the registered professional nurse or licensed physician. W. Va. Code §18A-4-8 defines licensed practical nurse as a nurse licensed by the West Virginia State Board of Examiners who is employed to work in a public school under the supervision of a certified school RN. The LPN shall not function as a certified school RN or as a school RN. The LPN completes a 12-month career and technical or community college program, obtains a diploma, and holds a valid West Virginia LPN licensure. A certified school RN has completed four to six years of college education, holds a minimum of a Bachelor's degree in nursing, certification in school nursing, and a valid West Virginia RN licensure.

9.5.a. LPN working under the school RN's supervision shall practice under assigned and/or delegated nursing duties from the certified school RN. County policy may include, but not be limited to, the following:

9.5.a.1. nursing competencies;

9.5.a.2. itinerant status due to the continuous changes in student health care affecting the staffing of county health care providers;

9.5.a.3. ability to receive written, verbal, telephone, faxed, electronic, and/or emailed orders for student care from a licensed health care provider/prescriber with communication to the certified school RN responsible for the overall care of the student;

9.5.a.4. contribution to the nursing assessment by collecting, reporting, and recording objective and subjective data, including health screenings, in an accurate and timely manner to the certified school RN; and

9.5.a.5. ability to provide student and staff education related to health promotion, disease prevention, and chronic diseases.

9.6. A licensed prescriber and/or professional nurse may be held liable for delegating professional responsibilities to individuals not qualified to perform them.

§126-25A-10. Administration of Medication.

10.1. Certified school RNs and LPNs are bound by standards of practice by the West Virginia RN and LPN boards when administering medication.

10.1.a. Medication administration by RNs, LPNs, and trained, designated school personnel shall occur in a clean and quiet environment where privacy is assured and with minimal interruptions.

10.1.b. The initial dose of any medication should be administered at home, excepting emergency medications, unless otherwise directed by the licensed prescriber and/or a court order.

10.1.c. Parents/guardians shall provide completed and signed medication authorization form(s) to be provided by the county board, indicating the student's name; date; allergies; medication name; dosage,

time, and route; intended effect of medication; other medication(s) taken by the student; licensed prescriber; and parent/guardian signature. Parents/guardians shall also replenish long-term and emergency prescribed medication as needed and retrieve unused or expired medicine from school personnel no later than 30 days after the authorization to give the medication expires or on the last day of school.

10.1.d. All medication prescribed by a physician shall be in the originally labeled container from the pharmacy stating the student's name, name of the medication, reason(s) for the medication (if to be given only for specific symptoms), dosage, time, route, reconstitution directions if applicable, and the date the prescription and/or medication expires.

10.1.e. All OTCs falling under the school principal's supervision shall be in the original manufacturer's container with the student's name and dosage instructions affixed to the container. The school principal may designate school personnel as defined in this policy to be trained to administer OTCs. The designated school personnel should undergo OTC retraining every two years. The WVDE provides online training for OTC administration.

10.1.f. A county board may choose to develop a medication policy allowing the administration of OTC medications with the parent's/guardian's consent.

10.1.g. Designated school personnel shall receive and review the emergency medication and medication authorization form and obtain authorization from the certified school RN to administer the medication. The student shall not attend school until both the administration form and medication are received to prevent risking the safety and welfare of the student. The SAT, Section 504, or IEP team shall consider the lack of emergency lifesaving medication(s) as child neglect.

10.1.h. The certified school RN is to be contacted immediately when a prescribed medication's appearance or dosage is questioned. The certified school RN shall take appropriate steps to ensure the medication is safe to administer.

10.1.i. The certified school RN is to be contacted immediately when a student's health condition suggests that it may not be appropriate to administer the medication.

10.1.j. When a student's medical condition requires a change in the medication dosage or schedule, the parent/guardian shall provide a new written medication authorization form from a licensed prescriber and container. The parent/guardian shall give medication changes to designated personnel within an appropriate timeframe.

10.1.k. Schools may use those stock medications permitted by W. Va. Code §18-5-22(c) (epinephrine) and §18-5-22(d) (opioid antagonist) if the county board adopts a policy under sections 12.2 through 12.14. Schools are required to follow the county board policy and may voluntarily adopt W. Va. Code §18-5-22(c) (stock epinephrine) as outlined in section 12.2 and W. Va. Code §18-5-22(d) (stock opioid antagonist) as outlined in section 12.10. County boards shall follow the procedures and protocols for school health and school nursing, as outlined in W. Va. Code and WVBE policies.

10.1.l. Schools should develop a mechanism to ensure all students, especially those with specialized health care needs, participate in school-related field trips. This mechanism should include advance notification to the certified school RN and/or the county's school health services director to ensure out-

of-state field trip destinations allow reciprocity and delegation of certain health care procedures by their state board of nursing laws and practice acts since the certified school RNs are licensed to practice nursing only in West Virginia. County boards may consider allowances and reimbursement to certified school RNs and LPNs to hold a compact nursing license, allowing nursing practice in multiple states to support classroom field trips.

10.2. Medication administration errors include, but are not limited to, any deviation from the instructions provided by the licensed health care provider. The certified school RN and administrator/principal shall be contacted immediately in the event of a medication administration error. In the event of a medication administration error the certified school RN or administrator/principal shall do the following:

10.2.a. contact the physician, parent/guardian, and if necessary, emergency medical services;

10.2.b. notify the certified school RN or administrator recommendation and/or licensed prescriber order in response to a medication administration error;

10.2.c. document all circumstances, orders received, actions taken, and student's status; and

10.2.d. submit a written report to the administrator and county superintendent at the time of the medication administration error. The report should include the student's name; the parent/guardian name and phone number; a specific statement of the medication incident; the person notified; and the remedial actions.

10.3. Self-administration of medication is permitted under W. Va. Code §§18-5-22a, 18 5-22b, and 18-2K-1, et seq. when all of the following conditions are met.

10.3.a. A written medication authorization form is received from the parent/guardian and licensed prescriber permitting self-administration of medication;

10.3.b. The student has demonstrated the ability and understanding to self-administer medication by passing an assessment by the certified school RN evaluating the student's self-administration technique and understanding the appropriate use of the medication;

10.3.c. The parent/guardian has acknowledged in writing that they have read and understood a notice provided by the county board stating that the county board, school, and its employees and agents are exempt from any liability, except for willful and wanton conduct, resulting in injury arising from the self-administration of medication;

10.3.d. The permission to self-administer medication shall be sufficient for the school year during which it is granted. All documents related to the self-administration of medication shall become part of the student's health record; and

10.3.e. The permission to self-administer medication may be revoked if the certified school RN finds that the student's technique and/or understanding of the medication's use is not appropriate or is being willfully disregarded.

§126-25A-11. Medication Storage, Inventory, Access, and Disposal.

11.1. Each school shall designate space in the building to store student medication at the correct temperature, in a secure, locked, clean cabinet or refrigerator, as required. Schools shall maintain epinephrine auto-injectors in a secure, unlocked location accessible to only certified school RNs, health care providers, and authorized nonmedical personnel and not by students. Special considerations may include transportation of medications on school buses with provisions specified for storage of medication, safety, and the return of medication to school.

11.2. All medication shall be entered on a medication inventory and routinely monitored for expiration and disposal.

11.3. Access to medications shall be under the school principal's authority in conjunction with the certified school RN assigned to that school.

11.4. An appropriate supply of long-term and emergency prescribed medication may be maintained at the school in amounts not to exceed school dosages within each calendar month.

11.5. School personnel shall dispose of unused or expired medicine unclaimed by the parent/guardian no later than 30 days after the parent/guardian medication authorization expires or on the last day of school, whichever comes first.

11.6. Medication disposal shall be done in a manner in which no individual has access to any unused portion. Two individuals shall witness the medication's disposal and the two individuals shall document the procedure on the appropriate form related to the specific student.

§126-25A-12. Emergency Medication.

12.1. The West Virginia Registered Nurses Board and W. Va. Code allows for the delegation of specific prescribed emergency medication. There are emergency medications that can only be administered by licensed nurses, such as, but not limited to, intranasal midazolam and intravenous clotting factor. The following emergency medications have been approved for school RNs to determine the ability to delegate, train, and continuously supervise school personnel to administer when a diagnosis and order are in place and the school RN or LPN is not available to provide such care:

12.1.a. glucagon;

12.1.b. epinephrine;

12.1.c. albuterol or other emergency asthma medication;

12.1.d. opioid antagonist; and

12.1.e. certain seizure medication can only be delegated to unlicensed school personnel if ordered by the student's physician and the certified school RN provides the final determination to allow delegation.

12.2. A public, private, parochial, or denominational school located within this state may possess and maintain at the school a supply of epinephrine auto-injectors for use in emergency medical care or

treatment for an anaphylactic reaction. Each county board may also develop an optional stock epinephrine policy during secondary activity/extracurricular events outside the school day. A prior diagnosis for a student or school employee requiring the use of epinephrine auto-injectors is not necessary to permit the school to stock epinephrine auto-injectors.

12.3. Epinephrine auto-injectors shall be maintained by the school in a secured, unlocked location, which is only accessible by certified school RNs, health care providers, and authorized nonmedical personnel, and not by students.

12.4. An allopathic physician licensed to practice pursuant to the provisions of W. Va. Code §30-3-1 or an osteopathic physician licensed to practice pursuant to the provisions of W. Va. Code §30-14-1 may prescribe within the course of the physician's professional practice standing orders and protocols for use when necessary by a school that wishes to maintain epinephrine auto-injector pursuant to the provisions of this section.

12.5. Certified school RNs are authorized to administer an epinephrine auto-injector to a student or school employee during regular school hours or at a school function when the certified school RN medically believes the individual is experiencing an anaphylactic reaction. A certified school RN may also use the school supply of epinephrine auto-injectors that meet the requirements of a prescription on file with the school for a student or school personnel.

12.6. Designated qualified school personnel and, at the county board's discretion, school transportation employees, may administer epinephrine when they reasonably believe, based upon their training, that an individual is experiencing an anaphylactic reaction. These employees must have been trained in the administration of an epinephrine auto-injector by the certified school RN and have been designated and authorized to administer the epinephrine auto-injector to a student or school employee during regular school-related events.

12.6.a. Designated qualified school personnel may also use the school supply of epinephrine auto-injectors for a student or school employee authorized to self-administer that meet the requirements of a prescription on file with the school. Transportation employees, including school bus operators, are not eligible to receive the additional pay provided in W. Va. Code §18-5-22(e).

12.7. The parent/guardian of a student administered a school-maintained epinephrine auto-injection shall be provided with a comprehensive notification immediately. The comprehensive notification should include the date and the approximate time the incident occurred, symptoms observed, who administered the injection, the rationale for administering the injection, the response to the epinephrine administration, the dose of epinephrine administered, the current location of the student, and any other necessary elements to make the student's parent/guardian fully aware of the circumstances surrounding the administration of the injection and the student's subsequent health status.

12.8. A certified school RN or designated qualified school person who administers an epinephrine auto-injection to a student or a school personnel provided in this policy and in W. Va. Code §18-5-22(c) is immune from liability for any civil action arising out of any act or omission resulting from the administration of the epinephrine auto-injection unless the act or omission was the result of the certified school RN or trained and authorized nonmedical school personnel's gross negligence or willful misconduct.

12.9. The county board shall provide training on anaphylaxis and allergy awareness for food service workers and others in the school system.

12.10. W. Va. Code §18-5-22(d) allows county boards the option to adopt stock opioid antagonist policies under a standing order by a licensed prescriber with specific protocols for administration by certified school RNs and other licensed RNs and LPNs working in the school. County boards must follow the protocols/standards for dosage set forth by the West Virginia Department of Health and Human Resources. The certified school RN shall train the designated school personnel for administration of an opioid antagonist, deem competent, and authorize them to administer an opioid antagonist. The opioid antagonist may be given to a student, school personnel, or any person on school property during regular school hours. Administration of the opioid antagonist may be given when the authorized personnel believes, based upon their training, that the individual is experiencing an adverse opioid event.

12.11. All licensed prescribers who prescribe an opioid antagonist to a school or county shall provide educational materials and training to the certified school RN, other licensed nurses, and school employees working in the opiate-related overdose prevention and treatment programs, as well as materials on administering the prescribed opioid antagonist.

12.12. Any certified school RN, other licensed nurses, and designated and trained school personnel who administers an opioid antagonist as provided in this policy and W. Va. Code §18-5-22(d) is immune from liability for any civil action arising out of any act or omission resulting from the administration of the opioid antagonist unless the act or omission resulted from the school RN or trained and authorized nonmedical school personnel's gross negligence or willful misconduct.

12.13. Prior notice to the parent/guardian of a student of the administration of the opioid antagonist is not required. Immediately following the administration of the opioid antagonist, the school shall provide notice to the parent/guardian of a student who received the opioid antagonist. Any certified school RN, other licensed nurse, and designated school personnel working in the school who administers an opioid antagonist to a person believed to be suffering from an opioid-related overdose is required to seek additional medical treatment at a medical facility for that person immediately following the administration of the opioid antagonist to avoid further complications resulting from a suspected opioid-related overdose. The notice shall include who administered the opioid antagonist, the rationale for administering the antagonist, the approximate time of the administration of the opioid antagonist, and any other necessary elements to make the student's parent/guardian fully aware of the circumstances surrounding the administration of the antagonist.

12.14. All public schools must report each incident resulting in administering epinephrine injections and administering opioid antagonist in their county. Public schools must report other medication administration errors (e.g., wrong dose, incorrect medication administered, other medication administration errors). The medication administration errors will be reported to the West Virginia Poison Center by calling 1-800-222-1222 after emergency medical services have transported the student or staff member to acute care. The notification should include the name of the student, the student's age and gender, date and the approximate time the incident occurred, symptoms observed, who administered the injection, the name of the school the student attends, a contact telephone number, the rationale for administering the injection, the response to the epinephrine administration or opioid antagonist, the dose of epinephrine or opioid antagonist administered, and any other necessary elements to provide a complete report for the individual situation. The West Virginia Poison Center will provide the data upon request to the public schools, county boards, and annually to the State Superintendent of Schools. The

State Superintendent of Schools shall prepare an annual report to present to the West Virginia Legislature's Joint Committee on Government and Finance as set forth in W. Va. Code §4-3, by December 31 of each year.

§126-25A-13. Student Rights.

13.1. Students are entitled to the assignment of qualified personnel.

13.2. FERPA affords students the right to privacy, dignity, respect, and courtesy.

§126-25A-14. Medical Cannabis.

14.1. A parent/guardian of any student who has been issued a medical cannabis identification card by the West Virginia Department of Health and Human Resources, Bureau for Public Health, and who has been issued a physician certification to use medical cannabis as part of the treatment of a serious medical condition, shall notify the school principal before medical cannabis may be administered on or in school property or at a school-related event.

14.2. Such notification shall be on a form that shall include the name of the student and the name and contact information for the student's caregiver.

14.3. In addition to such notification, a parent/guardian shall provide the following documentation to the school principal:

14.3.a. the student's identification card issued by the West Virginia Department of Health and Human Resources, Bureau for Public Health, pursuant to the Medical Cannabis Act, W. Va. Code §§16A-1-1, et seq.;

14.3.b. the caregiver's identification card issued by the West Virginia Department of Health and Human Resources, Bureau for Public Health, pursuant to the Medical Cannabis Act, W. Va. Code §§16A-1-1, et seq.; and

14.3.c. a certification issued by a physician who is registered with the West Virginia Department of Health and Human Resources, Bureau for Public Health, that authorizes the use of medical cannabis by the student and that meets the requirements of W. Va. Code §16A-4-3 and §16A-4-4.

14.4. The notification and documentation specified in section 14.3 of this policy shall be updated at least annually by the student's parent/guardian.

14.5. A parent/guardian shall provide written notice to the school principal within ten days of any of the following:

14.5.a. a change in the student's designated caregiver;

14.5.b. a change in the student's physician for the purpose of certifying medical cannabis use by the student;

14.5.c. if the student ceases to have a serious medical condition for which medical cannabis may

be used; or

14.5.d. if the student's, caregiver's or certifying physician's identification card, registration or other authorization to use, deliver, administer, certify, or authorize medical cannabis has become void, has expired, has been suspended or revoked, or has been otherwise terminated or discontinued.

14.6. The notification and copies of the documentation specified in sections 14.1, 14.2, 14.3, 14.4, and 14.5 of this policy shall be kept on file as part of the student's educational record.

14.7. Upon notification and receipt of the documentation required by this policy, a school principal shall allow a designated caregiver to administer medical cannabis to a student on or in school property or at a school-related event in accordance with a physician's certification, including the medical cannabis form or delivery route, dosage, and timing.

14.8. Medical cannabis shall not be stored on school property nor shall it be administered by school personnel unless the student is the child or is in the legal custody of a school employee and the school employee is the student's designated caregiver.

14.9. Medical cannabis administered on or in school property or at a school-related event shall be in a form permitted by W. Va. Code §16A-3-2 and may not be administered in dry leaf or plant form.

14.10. If medical cannabis is administered on or in school property, the designated caregiver shall abide by the school's policies and procedures for visitors to the school.

14.11. If medical cannabis is administered at a school-related event, the designated caregiver shall administer it in an area outside of the view of other students and in accordance with any policies and procedures established by the school.

14.12. A designated caregiver shall not administer medical cannabis in a manner that creates disruption to the educational environment or the school-related event, or that causes exposure to other students or persons.

14.13. A student, even if 18 years or older or emancipated, may not possess or self-administer medical cannabis on or in school property or at a school-related event. Only a designated caregiver may possess and administer medical cannabis to a student on or in school property or at a school-related event. A student who is 18 years or older or who is emancipated shall provide the notices and documentation required by sections 14.1, 14.2, 14.3, 14.4, and 14.5 of this policy and must designate a caregiver for the purposes of possession and administration of medical cannabis on or in school property or at a school-related activity.

14.14. After the designated caregiver administers medical cannabis to a student, the caregiver shall remove any remaining medical cannabis from the school property or school-related event.

14.15. As is the case with controlled or illegal substances, student possession, use, distribution, sale, or being under the influence of marijuana or marijuana derivatives is inconsistent with this policy.

14.16. In accordance with W. Va. Code §16A-15-4, a student shall not be subject to discipline solely for the lawful use of medical cannabis.

14.17. Any information received by a school pursuant to section 14 of this policy related to medical cannabis and containing confidential information or personally identifiable information is protected by FERPA and shall become part of the student's educational record.

14.18. Any county board that can reasonably demonstrate that it will lose or has lost federal funding as a result of complying with section 14 of this policy related to medical cannabis may seek a waiver from the WVBE.

§126-25A-15. Penalties.

15.1. Failure of any school personnel to comply with this policy will result in personnel disciplinary actions based on state and county board policies.

§126-25A-16. Administrative Due Process.

16.1. Families dissatisfied with any part of the management and/or delivery of school health services or the management and/or administration of medical cannabis during the curricular or co-curricular day and school-related events should:

16.1.a. schedule a meeting with the certified school RN and school principal or designee; and/or

16.1.b. follow due process procedures as outlined in Policy 2419, Section 504, and/or W. Va. 126CSR188, Policy 7211, Conflict Resolution Process for Citizens.

§126-25A-17. Severability.

17.1. If any provision of this policy or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of this policy.