

**WEST VIRGINIA
SECRETARY OF STATE**

KEN HECHLER

ADMINISTRATIVE LAW DIVISION

Form #2

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STATE OF WEST VIRGINIA
DEPARTMENT OF STATE

NOTICE OF A COMMENT PERIOD ON A PROPOSED RULE

AGENCY: West Virginia Board of Education TITLE NUMBER: 126

RULE TYPE: Legislative; CITE AUTHORITY WV Code 18-5-22

AMENDMENT TO AN EXISTING RULE: YES ___ NO x

IF YES, SERIES NUMBER OF RULE BEING AMENDED: _____

TITLE OF RULE BEING AMENDED: _____

IF NO, SERIES NUMBER OF NEW RULE BEING PROPOSED: 25

TITLE OF RULE BEING PROPOSED: School Nurses and Specialized Health
Procedures

IN LIEU OF A PUBLIC HEARING, A COMMENT PERIOD HAS BEEN ESTABLISHED DURING WHICH ANY INTERESTED PERSON MAY SEND COMMENTS CONCERNING THESE PROPOSED RULES. THIS COMMENT PERIOD WILL END ON June 7, 1990 AT 9:00 a.m.

ONLY WRITTEN COMMENTS WILL BE ACCEPTED AND ARE TO BE MAILED TO THE FOLLOWING ADDRESS.

Mrs. Lenore Zedosky, Acting Unit Coordinator
West Virginia Department of Education
Student Support Services
Room B-309, Capitol Complex
Charleston, WV 25305

THE ISSUES TO BE HEARD SHALL BE LIMITED TO THIS PROPOSED RULE.

Barbara L. Estep

April 23, 1990

ATTACH A **BRIEF** SUMMARY OF YOUR PROPOSAL

EXECUTIVE SUMMARY

Rules and Regulations for Performance of Specialized Health Procedures in Schools Series 25

(Policy 2422.7)

Purpose

The proposed policy specifies procedures to be followed when providing basic or specialized health procedures required for health related problems of students in the school setting. The document entitled Basic and Specialized Health Care Procedure Manual for West Virginia Public Schools will be used to assure standard performance of procedures.

Background

In 1989 the legislature amended WV Code 18-5-22 to more clearly define the role and responsibility of the school nurse and to assure that the health and safety needs of students were appropriately met. The Council of School Nurses created by the law was elected in the Fall of 1989.

The Council met with Health Department staff, Joan Kenney, Director of the Office of Local Health and Kay Howard of the Regulatory Office in October 1989 to discuss the law and the rules and regulations authorized to be promulgated by the Department of Health. Council members agreed to draft the rules for the Department of Health with the understanding that they would be filed with the Secretary of State as emergency rules. The Council sent the draft document to Kay Howard on December 13, 1988, but no action has been taken. Therefore, the WV Board of Education is being asked to assume the responsibility of implementing the stipulations in the law.

The procedure manual referenced in the law has been completed by the Council and is included as a reference to the rules and regulations.

IMPACT STATEMENTS

Instructional

School nurses have the authority to delegate certain procedures to other school personnel, to instruct these personnel in the proper performance of the procedure and to determine if the procedure is being performed safely. In addition, student instruction that would enable a child to perform his/her own care may be included as part of an individual instructional program.

Leadership

School nurses have the authority and responsibility as Registered Nurses to determine health needs of students and to develop and implement plans for the meeting of health needs during the school day. The rules and the accompanying procedure manual clarify the duties as outlined in WV Code 18-5-22 and 30-7-1, et. seq.

Staff Development

The law, §18-5-22, and the Rules and Regulations provide for specific staff development that has two categories, Phase I and Phase II. Beginning with July 1, 1989, any new employee in the field of special education and all teachers and aides who provide basic health care procedures for students shall be required to undergo Phase I training or to demonstrate competency in performance of Phase I procedures. In addition, Phase II training will be required for all school employees performing specialized health care procedures. The training and retraining are to be implemented by the Department of Health.

Administration

County administrators will be responsible for determining which employees shall be trained. School nurses will coordinate training and will determine individual student needs.

WEST VIRGINIA LEGISLATIVE RULE
DEPARTMENT OF EDUCATION

Chapter 18
Series 25

(Policy 2422.7)

Subject: School Nurses and Specialized Health Procedures

Section 1. GENERAL

- 1.1 Scope. Standards for school nurses to assess children's health needs and to decide who is best skilled to respond to them.
- 1.2 Authority. These legislative rules are issued under authority of and are related to Chapter 18, Article 5, Section 22 of the West Virginia Code of 1931, as amended.
- 1.3 Filing Date. These legislative rules were promulgated on _____ day of _____, 1989, and were filed on the _____ day of _____, 19 __, in the Secretary of State's Office.
- 1.4 Effective Date. These legislative rules become effective on the _____ day of _____, 19__.

Section 2. APPLICATION AND ENFORCEMENT

- 2.1 Application. These legislative rules apply to any public school in a county or municipal area.
- 2.2 Enforcement. The enforcement of these legislative rules is vested with the Director of the West Virginia Division of Public Health or his lawful designee.

Section 3. DEFINITIONS

- 3.1 Basic Health Care Procedures. Procedures performed by school personnel to ensure that health and safety needs of students are met.
- 3.2 Cardiopulmonary Resuscitation (CPR). Possession of a current valid certificate from an approved program.
- 3.3 School Health Case Manager. Certified school nurse who reviews and interprets medical data for health-related problems of the students and who coordinates all school health services.

- 3.4 Certified School Nurse. A nurse who has demonstrated expertise in school health nursing practice. The school nurse must be certified as a school nurse by the West Virginia Department of Education Policy 5219.02 - School Nurse Certification, and licensed by the West Virginia Board of Examiners for Registered Professional Nurses (WV Code 30-7-1, et. seq.). The school nurse must be employed by the county board of education or the county health department as specified in Policy 5219.02.
- 3.5 Health Appraisal. Process in which the school nurse obtains student data. This assessment is comprehensive, systematic, and continuous to allow the school nurse to make a nursing diagnosis and plan for interventions with the student, family, school staff and physician when necessary.
- 3.6 Health Care Plan. Written document developed by the school nurse 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 and delegated procedures.
- 3.7 Licensed Practical Nurse. A person who has met all the requirements for licensure as a practical nurse and who engages in practical nursing as defined in WV Code (30-7a-1, et. seq.).
- 3.8 Performance Check List. A tool used by the certified school nurse in determining that a school employee meets the minimum standards required to perform specialized health procedures safely.
- 3.9 Qualified. Ability to demonstrate competence and skills in the use of equipment and performance of techniques and procedures necessary to provide specialized health care services for individuals with exceptional needs. Demonstrates current knowledge of community emergency medical resources.
- a. Qualified, for the certified school nurse, registered nurse or licensed physician, shall mean trained in the procedures to a level of competence and safety which meets the objectives of the training and the standards of practice of the profession.
 - b. Qualified, for the employed, designated school personnel, shall mean trained in the procedures to a level of competence and safety which meets the objectives of the training. The training shall be provided by the certified school nurse or an approved program that meets training criteria.
- 3.10 Related Services. Transportation and such developmental, corrective, and other supportive services as are required to assist an eligible exceptional student to benefit from education. 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.

- 3.11 School Employee. School employee as defined by WV Code 18-5-22 means teachers as defined in WV Code 18-1-1 and aides as defined in WV Code 18a-4-8.
- 3.12 Specialized Health Care Procedures. Procedures prescribed by the child's licensed physician(s) requiring medical and/or health-related training for the individual who performs the procedures.
- 3.13 Standardized Procedures. Those protocols and procedures outlined in the Basic and Specialized Health Care Procedure Manual for West Virginia Public Schools. They constitute the minimum safe standards of practice that are utilized in the provision of basic and specialized health care procedures.
- 3.14 Supervision. Supervision of designated school employees shall include periodic on-site review by the certified school nurse. Supervision shall include review of the competence of that individual in performing the specialized health care procedure and maintaining appropriate records.
- a. Immediate supervision. The supervisor shall be physically present while a procedure is being administered to review, observe and/or instruct the designated school employee's performance of health care services.
 - b. Direct supervision. The supervisor shall be present on the same school campus as the employee being supervised and available for consultation and/or assistance.
 - c. Indirect supervision. The supervisor shall be available to the qualified, designated school employee, either in person or through electronic means to provide necessary instruction, consultation, and/or referral for appropriate assistance.
- 3.15 Training. Preparation for the performance of specialized health care procedures.

Section 4. STATE ADMINISTRATIVE PROCEDURES

- 4.1 Standards of Performance of Care. The Basic and Specialized Health Care Procedure Manual for West Virginia Public Schools shall be utilized as the minimum standard for safe practice.
- 4.2 Training Program. Beginning with July 1, 1989, any new employee in the field of special education and all teachers and aides, who provide basic health care procedures for students, shall be required to undergo Phase I training or demonstrate competency in performance of Phase I procedures. In addition, Phase II training will be required for all school employees performing specialized health care procedures.

a. Phase I:

Proper handwashing
Assisting students with activities of daily living
Toileting procedures
Handling and disposal of body fluids including use of gloves
Body mechanics
Basic first aid including Heimlich Maneuver
CPR for infant, child, adult

b. Phase II:

Individualized training in the performance of any one or more specialized health care procedures.

c. Trainer. Training and retraining must be provided and/or coordinated by a certified school nurse.

d. Evaluation. An evaluation of the performance of the procedure shall be completed by the school nurse. This evaluation shall include the completion of a critical skills performance check sheet.

e. Supervision. The category of supervision required (immediate, direct, or indirect) in each situation shall be determined by the certified school nurse.

f. Training. Training shall be provided through simulation or use of training models. Initial practice of the procedure shall be simulated or done on models rather than the student.

g. Evaluation. Personnel shall have an annual evaluation of performance for each specialized health care procedure. This annual evaluation shall be documented by the certified school nurse. Personnel policies approved by state or local boards of education will be followed.

h. Retraining. Personnel shall be retrained every two years on performance of each specialized health care procedure (beginning 1990-91) that is currently prescribed and being performed.

Section 5 ORGANIZATION AND MANAGEMENT

5.1 Personnel Certification. School employees will be certified for completion of training in Phase I and Phase II as applicable.

Phase I Certification must assure:

- a. Completion of the total program
- b. Demonstrated competency

Phase II Certification must assure:

- a. Completion of Phase I
- b. Completion of training in each individual specialized health care procedure to be performed
- c. Demonstrated competency based on a critical skills performance checksheet

5.2 Awarded Certificate. Certificates may only be awarded by:

- a. Schools of nursing
- b. Vocational schools
- c. Independent approved faculty
- d. Certified school nurses

5.3 Changes. Updating of these rules will be done by the Council of School Nurses.

Section 6 SYSTEM FOR SCHOOL ADMISSION AND CARE

6.1 Admission. For students needing specialized health care procedures, the certified school nurse shall assess the student, review the physician's orders, and assure implementation of all needed health and safety procedures. This assessment shall be completed prior to initial school attendance, and following any absence in which a health condition may have changed, necessitating re-evaluation.

6.2 Physicians Orders. The physician's orders are kept on file in the student's permanent record.

6.3 Assignments. Certified school nurses shall determine assignment of any aspect of care.

Section 7. HEALTH CARE PLAN

7.1 Health Care Plan. Prepared by the school nurse based on assessment of student and/or physician's written orders. (See definition)

7.2 Assignment. Review the health care plan with staff member assigned to carry out the plan.

7.3 Contents. The plan should contain:

- a. Nursing assessment
- b. Nursing diagnosis
- c. Goals and expected outcomes
- d. Interventions
- e. Evaluation

Section 8. QUALITY ASSURANCE

- 8.1 An annual needs assessment developed, implemented and analyzed by the Council of School Nurses, shall be the basis for revision of the Basic and Specialized Health Care Procedure Manual for West Virginia Public Schools.
- 8.2 The Council of School Nurses shall meet every two years to review the certification and training program regarding school employees.
- 8.3 The Council of School Nurses shall meet at least bi-annually, or more frequently as deemed necessary by the Chair of the Council.
- 8.4 The certified school nurse shall receive continuing education programs which shall provide:
 1. the training needed related to new specialized health care procedures.
 2. inservice applicable to effective school health practice.

Section 9. SCHOOL HEALTH RECORDS

- 9.1 Confidentiality. All records are confidential and shall not to be released except under existing Board of Education policies.
- 9.2 Documentation. A log will be maintained for each student needing a specialized health care procedure. It will include date and time procedure was performed and any anecdotal notes on events and interactions and signature.

Section 10. STAFFING REQUIREMENTS

- 10.1 Staffing. School nurses must be employed in sufficient numbers to ensure adequate provision of services to severely handicapped pupils. Registered nurses have the authority and the ability to teach and to supervise other persons in rendering selected health services and/or procedures.
- 10.2 Certified School Nurse. The school nurse must have a current license as a registered professional nurse in the State of West Virginia (WV Code 30-7-1, et. seq.). The school nurse must be certified as a school nurse by the West Virginia Department of Education (SDE Policy 5219.01). The school nurse must be employed by the county board of education or the county health department (WV Code 18-5-22) which contracts to provide equivalent services to boards of education. Performance of professional nursing service means both independent nursing functions and health related services which require specialized knowledge, judgement, and skills as governed by the West Virginia Nurse Practice Act (WV Code 30-7-1, et. seq.) and American Nursing Association Standards of School Nurse Practice.

- 10.3 Licensed Practical Nurse. The practical nurse must be currently licensed to practice in the State of West Virginia (WV Code 30-7a-1, et. seq.) and must function under the supervision of the registered professional nurse or licensed physician. The practical nurse shall not function as a school nurse.
- 10.4 Other School Personnel Providing Health Related Services. All medical contacts, referrals and interpretations of medical data shall be managed by the certified school nurse. The nurse serves as the case manager for health related problems and decisions. In the role of case manager, the nurse is responsible for standards of school nurse practice in relation to health appraisal and health care planning. School employees, with the approval of the principal and the county board of education, may elect to provide approved specialized health care procedures and such procedures shall be delegated by the certified school nurse. The school nurse shall provide for training, retraining, and supervision, and upon completion certify satisfactory level of competence before school employees perform certain health care procedures.
- 10.5 Liability. A physician and/or professional nurse may be held liable for delegating professional responsibilities to individuals not qualified to perform them.

Section 11. STUDENT RIGHTS

- 11.1 Assignment. The assignment of qualified personnel.
- 11.2 Rights. The right to privacy, dignity, respect and courtesy, in accordance with Student's Privacy Act.

Section 12. PENALTIES

- 12.1 Compliance. Failure of any school personnel to comply with the above rules will result in personnel disciplinary actions.
- 12.2 Civil Actions. In addition, personnel may individually face civil actions brought about by the student or his parents/guardians.

Section 13. ADMINISTRATIVE DUE PROCESS

- 13.1 Parents/Legal Guardians. Families dissatisfied with the health care plan and its handling by personnel should:
- a. Schedule a meeting with the school nurse.
 - b. Follow due process procedure as outlined by the Board of Education.
 - c. Appeal unacceptable outcomes at the third step to the Director, Division of Public Health as prescribed in and by the Rules of Procedure for Contested Care Hearings and Declaratory Rulings, West Virginia Board of Health Procedural Rules, 64 CSRI, 1983 promulgated by the Board of Health.

- 13.2 Provisions. A hearing will be conducted by the Director of the Division of Public Health in accordance with the pertinent provisions of Chapter 29A, Article V of the West Virginia Code and the aforementioned Rules of Procedure for Contested Care Hearings and Declaratory Rulings.
- 13.3 Judicial Review. The Director's order shall be final unless vacated or modified by judicial review in accordance with the laws of the State.

COMMENT LOG
Rules and Regulations for Performance of
Specialized Health Procedures in Schools
(Policy 2422.7)

Directions: Please use this form in commenting by section on the proposed policy regulations and procedure manual.

NAME OF INDIVIDUAL/ORGANIZATION _____

ADDRESS _____

Proposed Policy	
Section 1: General	
Section 2: Application & Enforcement	
Section 3: Definitions	
Section 4: State Admin. Procedures	
Section 5: Organization & Management	

Section 6: System for School Adm. and Care	
Section 7: Health Care Plan	
Section 8: Quality Assurance	
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Section 10: Staffing Requirements	
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Section 12: Penalties	
Section 13: Administrative Due Process	
Procedure Manual	

COMMENTS (Continued)
Policy 2422.7

Basic Health Procedures	
Specialized Health Procedures	

Please submit comments by May 25, 1990 to:

West Virginia Department of Education
Lenore Zedosky, Acting Unit Coordinator
Student Support Services
B-309, Capitol Complex
Charleston, West Virginia 25305