

WEST VIRGINIA
SECRETARY OF STATE

JOE MANCHIN III

ADMINISTRATIVE LAW DIVISION

Form #2

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2003 SEP 19 A 11:17

OFFICE WEST VIRGINIA
SECRETARY 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: W.Va. Constituion, Article XII, §2 and W.Va. Code §§18-1-1, 18-2-5, 18-5-22, 18-5-22a, 18A-4-8, 30-7-1 and 30-7a-1

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: 27

TITLE OF RULE BEING PROPOSED: Medication Administration (2422.8)

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 October 24, 2003 AT 4:45 p.m. ONLY WRITTEN COMMENTS WILL BE ACCEPTED AND ARE TO BE MAILED TO THE FOLLOWING ADDRESS:

Melanie Purkey, Executive Director
Office of Student Services & Health Promotion
West Virginia Department of Education
Capitol Building 6, Room 309
1900 Kanawha Boulevard, East
Charleston, West Virginia 25305

THE ISSUES TO BE HEARD WILL BE LIMITED TO THIS PROPOSED RULE



Steven L. Paine
Deputy State Superintendent of Schools

ATTACH A **BRIEF** SUMMARY OF YOUR PROPOSAL

\$5.00

EXECUTIVE SUMMARY

WEST VIRGINIA DEPARTMENT OF EDUCATION

Policy Number And Title:

Policy 2422.8
Medication Administration

Background:

Each school year, over 11,000 children receive medications at school. W.Va. Code §18-5-22a requires that all county boards of education develop specific medication administration policies. Review of these policies by a Task Force convened by the WV Board of Examiners for Registered Nurses revealed significant differences in procedures and thus the Task Force recommended the creation of a WV Board of Education policy that would promote safety and consistency.

During the past six months, the Task Force studied county medication policies and current school medication administration practices to determine the components necessary for inclusion in a statewide policy. The Task Force found that all counties require a physician's order and parent authorization for the administration of prescription medications. However, non-prescription (over-the-counter) medications are required to be physician approved in approximately one-third of the counties, and may be administered with only parent permission in the remaining counties.

Proposals:

Specific procedures for medication administration are outlined along with the roles and responsibilities of school personnel, parents and students. Medication storage, recording, and student confidentiality are all addressed in this policy.

Impact:

The proposed policy will improve the safety of medication administration. It will also require that all medications given at school, both prescription and non-prescription, be authorized by a physician or qualified health care provider.

126CSR27

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TITLE 126
LEGISLATIVE RULE
BOARD OF EDUCATION

2003 SEP 19 A 11: 17

OFFICE WEST VIRGINIA
SECRETARY OF STATE

SERIES 27
MEDICATION ADMINISTRATION (2422.8)

§126-27-1. General.

1.1. Scope. -- This legislative rule establishes standards for administration of all medication in West Virginia public schools.

1.2. Authority. -- W. Va. Constitution, Article XII, §2 and W.Va. Code §§18-1-1, 18-2-5, 18-5-22, 18-5-22a, 18A-4-8, 30-7-1 and 30-7a-1.

1.3. Filing Date. --

1.4. Effective Date. --

1.5. Repeal of Former Rule. -- None. This is a new policy.

§126-27-2. Purpose.

2.1. Good health is essential to student learning. Administration of medication during the school day is often essential to allow students to attend school. This policy establishes the standards that must be followed when any medication is required to be administered during attendance at school or school related events and to provide for emergency medication administration, when necessary.

§126-27-3. Application.

3.1. These regulations apply to any authorized personnel administering any medications (both prescription and over-the-counter) to students enrolled in West Virginia public schools.

3.2. Nonprescription medications should be administered at home. In the rare event that it is necessary for over-the-counter (OTC) medications to be given in the school setting or during school-related events, the medication must be accompanied by the same authorization required for prescription medications and provided in the original container or packaging.

3.3. Dietary supplements should be administered at home. In the rare event that it is necessary for vitamins or food supplements to be administered at school and school

126CSR27

related events, they must be U.S. Food and Drug Administration hereinafter (FDA) approved and be accompanied by the same documentation required for other medications and provided in the original container.

§126-27-4. Definitions.

4.1. "Administration of medication" means a specialized health care procedure which may be performed by school personnel who are designated, qualified, trained and authorized to administer medications to students.

4.2. "Certified school nurse" is defined as a registered professional nurse, 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 approved program as defined in West Virginia Board of Education Policy 5100 – Approval of Educational Personnel Preparation Programs (126CSR114) and meets the requirements for certification contained in Policy 5202 – Minimum Requirements for the Licensure of Professional/Paraprofessional Personnel and Advanced Salary Classification (126CSR136). The certified school nurse must be employed by the county board of education or the county health department as specified in W.Va. Code §18-5-22.

4.3. "Designated qualified personnel" means an employee who is selected and agrees to administer medications, is trained by a certified school nurse and demonstrates competence and skills in the performance of all procedures needed to be followed for each individual student he/she is assigned to give medications and who is authorized by the principal to assume this duty.

4.4. "Dietary supplement" means a product (other than tobacco products) intended to supplement the diet that bears or contains one or more of the following dietary ingredients:

4.4.1. a vitamin;

4.4.2. a mineral;

4.4.3. an herb or other botanical;

4.4.4. an amino acid;

4.4.5. a dietary substance for use by man to supplement the diet by increasing the total dietary intake; or

4.4.6. a concentrate, metabolite, constituent, extract, or combination of any ingredient described in clause 4.4.1., 4.4.2., 4.4.3, 4.4.4. or 4.4.5. and meets additional stipulations as outlined by the FDA.

126CSR27

4.5. "Licensed health care provider" means a medical doctor or doctor of osteopathy, a podiatrist, registered nurse, practical nurse, registered nurse practitioner, physician's assistant, dentist, optometrist or respiratory care professional licensed under Chapter Thirty of W.Va. Code.

4.6. "Medication" means a drug, as defined in W.Va. Code §60A-1-101, which has been prescribed by a duly authorized health care professional.

4.7. "School-related event" means any curricular or co-curricular activity (as defined in West Virginia Board of Education Policy 2510 – Assuring the Quality of Education: Regulations for Education Programs -126CSR42) that is conducted outside of the school environment and/or the instructional day.

4.8. "Supervision of self-administration of medication" means a personal service which includes reminding students to take medications, opening medication containers for students, reading the medication label to students, observing students while they take medication, checking the self administration dosage against the label on the container and reassuring students that they have obtained and are taking the dosage as prescribed.

§126-27-5. Authorization.

5.1. Authorized personnel include school nurses, other licensed health care providers, principals, teachers, aides and secretaries as defined in W.Va. Code §§18-1-1, 18A-4-8 and 18-5-22.

5.2. Medications shall be administered only after the following requirements are met:

5.2.1. Student specific written authorization from a licensed physician or other health care provider with the authority to prescribe medications or dietary supplements.

5.2.2. Written permission for administration of the medication or dietary supplement in the school setting from the parent or legal guardian, with review of the protocol with the parent or legal guardian prior to obtaining their signed permission.

5.2.3. The school nurse has the authority to determine if the administration of the medication may be safely delegated to designated, qualified personnel, as defined in Section 5.1.

5.2.4. The school nurse has the authority to contact the health care provider prescribing the medication to validate that the medication must be administered at school.

5.2.5. Two (2) emergency phone numbers should be provided for those students taking medication during the school day, whenever possible.

126CSR27

§126-27-6. Roles and Responsibilities.

6.1. Role of the school administrator(s).

- 6.1.1. Provide for appropriate, secure, and safe storage and access of medications.
- 6.1.2. Provide a clean, safe environment for medication administration.
- 6.1.3. Provide, only in the absence of the school nurse, a mechanism for safely receiving, counting and storing medications.
- 6.1.4. Selection of potential candidates for medication administration.
- 6.1.5. Assignment of a qualified employee who meets a satisfactory level of competence following training for medication administration as provided by the school nurse.
- 6.1.6. Receive appropriate training if administering medications to students.

6.2. Role of the school nurse.

6.2.1. The school nurse serves as the manager for health related problems and decisions. In the role of manager, the nurse is responsible for standards of school nurse practice in relation to health appraisal, health care planning and maintenance of complete and accurate documentation. For students needing medication to attend school, the school nurse shall assess the student, review the physician's orders, assure implementation of needed health and safety procedures, and develop the health care plan.

6.2.2. The certified school nurse utilizes the "West Virginia Board of Examiners for Registered Nurses Guidelines for Determining Acts that May be Delegated or Assigned by Licensed Nurses", January 2001, and any revisions thereof, as the mechanism for determining whether or not the administration of specific medications may be delegated.

6.2.3. The school nurse shall provide for training, retraining, and supervision of medication administration; and, upon completion, certify that a satisfactory level of competence has been attained before delegating medication administration to qualified school employees.

6.2.4. Validation of the student's knowledge and skills related to self-administration of medication will be evaluated and determined by the school nurse and documentation of such must be placed in the student's health care plan.

6.2.5. When a student requires self-administration of emergency medications, such

126CSR27

as a prescribed bronchodilator (rescue inhaler) or Epi-pen, a physician's order must be provided indicating that said student must maintain the medication on their person at all times and that said student is able to self-administer the medication; the school nurse shall validate and document in the student's health care plan that the student is able to bring the medication to school, carry the medication in such a manner that the medication cannot be accessed by another individual, and use the medication only as prescribed.

6.3. Role of the parent.

6.3.1. Administer the first dose of a medication at home, except for emergency medications.

6.3.2. Replenish the school's supply of medication prescribed by the qualified health care provider.

6.3.3. Ensure that the medication arrives safely at school in a current and properly labeled container and is given to the school nurse; in the absence of the school nurse, the medication shall be given to a person authorized by the principal to receive and store medication.

6.3.4. Authorize the disposal of unused or outdated medicine (not retrieved by the parent) by school personnel no later than thirty (30) days after the authorization to give the medication expires or on the last day of school.

6.3.5. Sign a release for emergency medical treatment except where contraindicated by a Do Not Resuscitate order.

6.4. Role of the student.

6.4.1. The student, in as much as their age, development and maturity permit, accepts responsibility for actually consuming the medication in the prescribed manner.

§126-27-7. Medication Provision.

7.1. The medication shall be in the originally labeled container from the pharmacy which includes:

7.1.1. The child's name,

7.1.2. Name of the drug,

7.1.3. Reason for the drug (if to be given only for specific symptoms),

126CSR27

- 7.1.4. Directions for giving the medication,
- 7.1.5. Dosage,
- 7.1.6. The date the prescription was filled,
- 7.1.7. The date the prescription expires, and/or
- 7.1.8. The date the medication expires, if applicable, or
- 7.1.9. Reconstitution directions, if applicable.

§126-27-8. Medication During School-Related Events.

8.1. When a student is required to take medication during a school-related event, the person administering the medication must have met the training requirements in Section 126-27-6.

8.2. It is the school nurse and administrator's shared responsibility to make certain the medication needs of the student are met.

8.3. The school nurse along with the parent(s) or legal guardian(s) will develop a plan for medication administration during a school-related event.

8.4. The school nurse will be notified at least one week in advance by the school staff of any school-related event that is planned away from the student's assigned school.

8.5. The school nurse is responsible for making appropriate arrangements for the administration of medication by school personnel meeting the training requirements in Section 126-27-6. The original container and medication documentation forms will be carried in a closed container or other secure device by the person administering the medication. This closed container, backpack or other secured device is to remain with the person responsible for giving medication(s) at all times.

§126-27-9. Medication Storage, Access and Disposal.

9.1. Each school shall designate space to store student medication in the school, at the correct temperature, in a secure, locked, clean cabinet or refrigerator, as required.

9.2. Access to medications shall be under the authority of the principal of the school in conjunction with the school nurse assigned to that school. If there is a school nurse assigned to the building, the certified school nurse will have authority over the access to medications.

126CSR27

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

9.4. Unused or outdated medicine not retrieved by the parent shall be disposed by school personnel as outlined in Section 126-27-6 of this policy. This shall be done in a manner in which no other individual has access to any unused portion.

9.5. If a medication must be disposed, two (2) individuals will witness the disposal of the medication and document such on the appropriate form related to the specific student.

§126-27-10. Administration, Documentation and Confidentiality.

10.1. Medication administration must take place in a clean and quiet environment where privacy may be established and interruptions are minimal.

10.1.1. Steps outlined in the training must be followed exactly.

10.1.2 The school nurse is to be immediately contacted when a medication's appearance or dosage is questioned. The school nurse shall take the appropriate steps to assure the medication is safe to administer.

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

10.1.4. When a student's medical condition requires that the medication dosage or schedule be changed, the following procedure shall be followed:

a. The parent must provide a new doctor's order and new prescription bottle to the school on the first day that the student returns to school after the change has been made; or,

b. Alternatively, the physician can send, by facsimile, an order to the school nurse and the parent will, within two days, provide the new prescription bottle,

c. The school nurse will notify the school of any changes, and

d. Verbal explanation of order changes by the parent or physician is NOT LEGALLY ACCEPTABLE.

10.2. Documentation of administration shall include:

10.2.1 Signature of the person administering the medication,

126CSR27

10.2.2 Time administered,

10.2.3 Route of administration,

10.2.4 Reactions or untoward effects, and

10.2.5 Reasons a medication may not be given

10.3. Confidentiality.

10.3.1. Student records related to diagnosis, medications ordered and medications given must be maintained according to Federal Education Right to Privacy Act (FERPA) and in such a manner that no one could view these records without proper authorization as specified in West Virginia Board of Education Policy 4350, Procedures for the Collection, Maintenance and Disclosure of Student Data (126CSR94).

§126-27-11. Medication Incidents.

11.1. Medication incidents include, but are not limited to, wrong medication administered, wrong time administered, administered to the wrong person, omission of medication prescribed, and wrong dosage of medication administered. The school nurse shall be contacted immediately in the event of a medication incident. The school nurse will then contact the physician and parent/legal guardian if necessary. The school nurse shall:

11.1.1. Implement the nurse recommendation/physician's order response to a medication incident.

11.1.2. Document all circumstances, orders received, actions taken and student's status.

11.1.3. Submit a written report at the time of the incident on the appropriate form. The form should include the name of the student, the parent/guardian name and phone number, and a specific statement of what the medication incident was, who was notified, and what remedial actions were taken.

§126-27-12. Consequences of Policy Violation.

12.1. If a student violates the policy regarding medication administration, action will be based upon West Virginia Board of Education Policy 4373, Student Code of Conduct (126CSR99) and/or WV Board of Education Policy 2422.5, Substance Abuse (126CSR23).

12.2. Failure of school personnel to comply with the above rules will result in personnel disciplinary actions based on West Virginia Board of Education Policy 5310, Performance

126CSR27

Evaluation of School Personnel (126CSR142) and West Virginia Board of Education Policy 5902, Employee Code of Conduct (126CSR162).

12.3. 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., "Standards of Professional School Nursing Practice". A school nurse may be held liable for delegating professional responsibilities to individuals not qualified to perform them.

§126-27-13. Severability.

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

FISCAL NOTE WORKSHEET

(Submit 4 Copies)

HD NO _____ DRAFT NO _____ BILL NO _____ RESOLUTION NO _____

SUBJECT Policy 2422.8 - Medication Administration FUND _____

SOURCE OF REVENUE: GENERAL FUND SPECIAL OTHER (SPECIFY) _____

COST OF ESTIMATE BASED ON: AN ORIGINAL ESTIMATE BUDGET BILL OTHER (SPECIFY) _____

INCOME ESTIMATE BASED ON: AN ORIGINAL ESTIMATE BUDGET BILL OTHER (SPECIFY) _____

SHOW OVER-ALL EFFECT IN ITEMS 1 AND 2 & GIVE EXPLANATION OF BREAKDOWN BY FISCAL YEAR INCLUDING LONG-RANGE EFFECT

EFFECT OF PROPOSAL	ANNUAL		CURRENT	FISCAL YEAR	
	INCREASE	DECREASE		NEXT	THEREAFTER
1. ESTIMATED TOTAL COST	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
PERSONAL SERVICES CURRENT EXPENSES REPAIRS/ALTERATIONS EQUIPMENT OTHER	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
2. ESTIMATED TOTAL REVENUES	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00

3. EXPLANATION OF ABOVE ESTIMATES (INCLUDING LONG-RANGE EFFECT):

DATE
8-18-03

AGENCY
West Virginia Department of Education

AUTHORIZED REPRESENTATIVE


**Policy 2422.8: Medication Administration
Comment Response Form**

Please use this form when commenting on proposed Policy 2422.8. You may attach additional sheets if necessary.

Individual/Organization: _____

Title: _____

Street Address: _____ City/State/Zip _____

Comments/Suggestions

126-27-1. General

126-27-2. Purpose.

126-27-3. Application.

126-27-4. Definitions.

126-27-5. Authorization.

Medication Administration Policy (Policy 2422.8)
Comment Response Form
Page two

126-27-6. Roles and Responsibilities.

126-27-7. Medication Provision.

126-27-8. Medication During School-Related Events.

126-27-9. Medication Storage, Access and Disposal.

126-27-10. Administration, Documentation and Confidentiality.

Medication Administration Policy (Policy 2422.8)
Comment Response Form
Page three

126-27-11. Medication Incidents.

127-27-12. Consequences of Policy Violation.

127-27-13. Severability.

Return comments by OCTOBER 24, 2003 to:

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