

# DEPARTMENT OF EDUCATION

## OFFICE OF THE SECRETARY

Statutory Authority: 14 Delaware Code, Section 122(d) (14 Del.C. §122(d))  
14 DE Admin. Code 817

### PROPOSED

#### Educational Impact Analysis Pursuant To 14 Del.C. Section 122(d)

#### 817 Administration of Medications and Treatments

##### A. TYPE OF REGULATORY ACTION REQUIRED

Amendment to Existing Regulation

##### B. SYNOPSIS OF SUBJECT MATTER OF THE REGULATION

The Secretary of Education intends to amend 14 DE Admin. Code 817 Administration of Medications and Treatments. The amendments include the addition of definitions, clarification of the process for the administration of medications and treatments, and also changes that reflect recent amendments to 24 Del.C., Section 1921(a)(17) relating to who may assist students with medications and when they may do so.

Persons wishing to present their views regarding this matter may do so in writing by the close of business on or before February 5, 2013 to Susan Haberstroh, Education Associate, Regulation Review, Department of Education, 35 Commerce Way, Suite 1, Dover, Delaware 19904. A copy of this regulation is available from the above address or may be viewed at the Department of Education business office.

##### C. IMPACT CRITERIA

1. Will the amended regulation help improve student achievement as measured against state achievement standards? The amendments are related to the administration and assistance of medications and treatment and not specifically related to improving student achievement as measured against state achievement standards.

2. Will the amended regulation help ensure that all students receive an equitable education? The amendments are related to the administration and assistance of medications and treatments and is not specifically related to all students receiving an equitable education.

3. Will the amended regulation help to ensure that all students' health and safety are adequately protected? The amendments should help ensure all students' health and safety are adequately protected.

4. Will the amended regulation help to ensure that all students' legal rights are respected? The amendments should help ensure all students' legal rights are respected.

5. Will the amended regulation preserve the necessary authority and flexibility of decision making at the local board and school level? The amendments preserve any necessary authority or flexibility at the local board and school levels.

6. Will the amended regulation place unnecessary reporting or administrative requirements or mandates upon decision makers at the local board and school levels? The amendments are not intended to place unnecessary reporting or administrative requirements or mandates upon decision makers at the local board and school levels.

7. Will the decision making authority and accountability for addressing the subject to be regulated be placed in the same entity? The decision making authority does not change because of this regulation.

8. Will the amended regulation be consistent with and not an impediment to the implementation of other state educational policies, in particular to state educational policies addressing achievement in the core academic subjects of mathematics, science, language arts and social studies? The amendments are consistent with the other state educational policies.

9. Is there a less burdensome method for addressing the purpose of the regulation? There is not a less burdensome method for addressing the purpose of the regulation.

10. What is the cost to the State and to the local school boards of compliance with the regulation? There are no added costs to the State or to the local boards for compliance with the amendments.

#### ~~817 Administration of Medications and Treatments~~

##### ~~1.0 Administration of Medications and Treatment~~

~~1.1 Medications, in their original container, and treatments may be administered to a public school student by the school nurse when a written request to administer the medication or treatment is on file from the parent, guardian or Relative Caregiver or the student if 18 years or older, or an unaccompanied homeless youth (as defined by 42 USC 11434a). The school nurse shall check the student health records and history for contra~~

indications and all allergies, especially to the medications, and shall provide immediate medical attention if an allergic reaction is observed or make a referral if symptoms or conditions persist. The school nurse shall also document the student's name, the name of medication and treatment administered, the date and time it was administered and the dosage if medication was administered.

**10-DE Reg. 1807 (06/01/07)**

**2.0 Licensed Health Care Provider**

- 2.1 Any prescribed medication administered to a student, in addition to the requirements in 1.0, shall be prescribed by a licensed health care provider. Treatment, including specialized health procedures, shall be signed by a licensed health care provider with directions relative to administration or supervision.

**10-DE Reg. 1807 (06/01/07)**

**3.0 Prescription Medications**

- 3.1 Prescription medication shall be properly labeled with the student's name; the licensed health care provider's name; the name of the medication; the dosage; how and when it is to be administered; the name and phone number of the pharmacy and the current date of the prescription. The medication shall be in a container which meets United States Pharmacopoeia National Formulary standards.
- 3.2 Medications and dosages administered by the school nurse shall be limited to those recommended by the Federal Drug Administration (FDA), peer review journal that indicates doses or guidelines that are both safe and effective or guidelines that are specified in regional or national guidelines.
- 3.2.1 The prescription and the medication shall be current and long term prescriptions shall be re-authorized at least once a year.
- 3.2.2 All medications classified as controlled substances shall be counted and reconciled each month by the school nurse and kept under double lock. Such medications should be transported to and from school by an adult.

**10-DE Reg. 1807 (06/01/07)**

**4.0 Non Prescription Medications**

- 4.1 Non-prescription medications may be given by the school nurse after the nurse assesses the complaint and the symptoms to determine if other interventions can be used before medication is administered and if all requirements in 1.0 have been met.

**10-DE Reg. 1807 (06/01/07)**

**5.0 IEP Team**

- 5.1 For a student who requires significant medical or nursing interventions, the Individual Education Program (IEP) team shall include the school nurse.

**10-DE Reg. 1807 (06/01/07)**

**6.0 Assistance With Medications on Field Trips**

- 6.1 Definitions

**"Assist a Student with Medication"** means assisting a student in the self administration of a medication, provided that the medication is in a properly labeled container as hereinafter provided. Assistance may include holding the medication container for the student, assisting with the opening of the container, and assisting the student in self administering the medication. Lay assistants shall not assist with injections. The one exception is with emergency medications where standard emergency procedures prevail in lifesaving circumstances.

**"Field Trip"** means any off campus, school sponsored activity.

**"Medication"** means a drug taken orally, by inhalation, or applied topically, and which is either prescribed for a student by a physician or is an over the counter drug which a parent, guardian or Relative Caregiver has authorized a student to use.

**"Paraeducator"** mean teaching assistants or aides.

- 6.2 Teachers, administrators and paraeducator employed by a student's local school district are authorized to assist a student with medication on a field trip subject to the following provisions:

- 6.2.1 Assistance with medication shall not be provided without the prior written request or consent of a parent, guardian or Relative Caregiver (or the student if 18 years or older, or an unaccompanied homeless youth (as defined by 42 USC 11434a). Said written request or consent shall contain clear instructions including: the student's name; the name of the medication; the dose; the time of administration; and the method of

administration. At least one copy of said written request or consent shall be in the possession of the person assisting a student with medication on a field trip.

- 6.2.2 The prescribed medication, in addition to the requirements in 1.0, shall be prescribed by a licensed health care provider. The medication shall be properly labeled with the student's name; the licensed health care provider's name; the name of the medication; the dosage; how and when it is to be administered; the name and phone number of the pharmacy and the current date of the prescription. The medication shall be in a container which meets United States Pharmacopoeia National Formulary standards.
- 6.2.3 A registered nurse employed by the school district in which the student is enrolled shall determine which teachers, administrators and paraeducators are qualified to safely assist a student with medication. In order to be qualified, each such person shall complete a Board of Nursing approved training course developed by the Delaware Department of Education, pursuant to 24 **Del.C.** §1921. Said nurse shall complete instructor training as designated by the Department of Education and shall submit a list of successful staff participants to the Department of Education. No person shall assist a student with medication without written acknowledgment that he/she has completed the course and that he/she understands the same, and will abide by the safe practices and procedures set forth therein.
- 6.2.4 Each school district shall maintain a record of all students receiving assistance with medication pursuant to this regulation. Said record shall contain the student's name, the name of the medication, the dose, the time of administration, the method of administration, and the name of the person assisting.
- 6.2.5 Except for a school nurse, no employee of a school district shall be compelled to assist a student with medication. Nothing contained herein shall be interpreted to otherwise relieve a school district of its obligation to staff schools with certified school nurses.

Nonregulatory note: 14 **DE Admin. Code** 612, *Possession, Use and Distribution of Drugs and Alcohol* addresses student self administration of a prescribed asthmatic quick relief inhaler and student self administration of prescribed autoinjectable epinephrine.

## **817 Medications and Treatments**

### **1.0 Medication**

- 1.1 Medication may be administered to a public school student by the school nurse when a written request to administer the medication or treatment is on file from the parent, guardian or Relative Caregiver or the student if 18 years or older, or an unaccompanied homeless youth (as defined by 42 USC 11434a).
  - 1.1.1 The school nurse shall check the student health records and history for contraindications and all allergies, especially to the medications, and shall provide immediate medical attention if an allergic reaction is observed or make a referral if symptoms or conditions persist.
  - 1.1.2 The school nurse shall also document the student's name, the name of medication and treatment administered, the date and time it was administered and the dosage if medication was administered.
- 1.2 In addition to the requirements set forth in 2.1 below, in the case of a Prescription Medication, the requirements set forth below in 2.2.1 through 2.2.4 shall also apply.
  - 1.2.1 Prescription medication shall be provided to the school in the original container and properly labeled with the student's name; the prescribing licensed health care provider's name; the name of the medication; the dosage; how and when it is to be administered; the name and phone number of the pharmacy and the current date of the prescription. The medication shall be in a container which meets United States Pharmacopoeia National Formulary standards.
  - 1.2.2 Medications and dosages administered by the school nurse shall be limited to those recommended by the Federal Drug Administration (FDA), peer review journal that indicates doses or guidelines that are both safe and effective, or guidelines that are specified in regional or national guidelines.
  - 1.2.3 The prescription and the medication shall be current and long term prescriptions shall be re authorized at least once a year.
  - 1.2.4 All medications classified as controlled substances shall be counted and reconciled each month by the school nurse and kept under double lock. Such medications should be transported to and from school by an adult.
- 1.3 Non-prescription Medication must be in an original container with full label and may be given by the school nurse after the school nurse assesses the complaint and the symptoms to determine if other interventions can be used before medication is administered.

### **2.0 Definitions**

The following words and terms, when used in this regulation, shall have the following meaning unless the context clearly states otherwise:

**“Assist with Medication”** means assisting a student in kindergarten through grade 12 in the self-administration of a medication taken orally, by inhalation, or applied topically, provided that the medication is in a properly labeled container. Assistance may include holding the medication container for the student, assisting with the opening of the container, and assisting the student in self-administering the medication. Assistance does not include making nursing judgments. Lay assistants shall not assist with injections. The one exception is with emergency medications where standard emergency procedures prevail in lifesaving circumstances.

**“Controlled Medication”** means those prescribed drugs regulated by Federal (CSA of 1970) and/or State Controlled (dangerous) Substances Act.

**“Educators”** means teachers, administrators, and paraeducators employed by a school serving students in Pre-Kindergarten through Grade 12.

**“Field Trip”** means any off campus, school sponsored activity.

**“Licensed Health Care Provider”** means anyone lawfully authorized to prescribe medications and treatments.

**“Medication”** means a drug, which has been authorized for a student to use and includes both prescription and non-prescription drugs.

**“Non-prescription Medication”** means any over-the-counter medication that can be sold legally without a prescription.

**“Other school employees”** means coaches or persons hired or contracted by schools serving students in Kindergarten through Grade 12.

**“Paraeducators”** mean teaching assistants or aides.

**“Prescription Medication”** means a legal drug that has a written order for an individual student by a licensed health care provider licensed to prescribe medication.

**“School Nurse”** means a Registered Nurse licensed to practice in the State of Delaware, who is employed by a school district, charter school, or private school.

**“Traditional School Day”** means the hours within the days counted to meet the state minimum number of school days each year and summer school.

### **3.0 Treatments**

Treatments including specialized health procedures, shall be prescribed by a licensed health care provider with directions relative to administration or supervision.

### **4.0 IEP Team**

For a student who requires significant medical or nursing interventions, the Individual Education Program (IEP) team shall include the school nurse.

### **5.0 Assistance With Self-Administration of Medications at Approved School Activities**

**5.1** Educators and other school employees are authorized by 24 Del.C. §1921(a)(17) to assist a student with self-administration of medication on a field trip or approved school activity outside of the traditional school day or off-campus are subject to the following provisions:

**5.1.1** Assistance with medication shall not be provided without the prior written request or consent of a parent, guardian or Relative Caregiver, or the student if 18 years or older, or an unaccompanied homeless youth (as defined by 42 USC 11434a). Said written request or consent shall contain clear instructions including: the student's name; the name of the medication; the dose; the time(s) and date(s) of administration; and the method of administration. At least one copy of said written request or consent shall be in the possession of the person assisting a student with medication on a field trip or approved school activity outside of the traditional school day or off-campus.

**5.1.1.1** Medications shall be prescribed by a licensed health care provider and are ones that cannot be rescheduled for times when a person, who may legally administer medication, is available.

**5.1.1.1.1** Doses may be provided for up to one week and shall be maintained in a secure location.

**5.1.1.2** Prescription medications shall be provided to the school nurse and shall be properly labeled with the student's name; the licensed health care provider's name; the name of the medication; the dosage; how and when it is to be administered; the name and phone number of the pharmacy; and

the current date of the prescription. The medication shall be in a container which meets United States Pharmacopoeia National Formulary standards.

- 5.1.1.2.1 Controlled medications must be stored on the person assisting or in a secure location under double lock. Maintaining multiple doses is not permitted except in the case of an overnight activity.
- 5.1.1.3 Non-prescription medications shall be provided to the school nurse by the parent in an original container along with a current, written directive from the student's licensed health care provider and shall include the student's name; the licensed health care provider's name; the name of the medication; the dosage; and how and when it is to be administered.
- 5.1.2 In order to be qualified to assist with medications, each such person shall complete a Board of Nursing approved training course developed by the Delaware Department of Education, pursuant to 24 Del.C. §1921(a)(17). Training shall be renewed minimally every five years. No person shall assist a student with medication without written acknowledgment that he/she has completed the course and that he/she understands the same, and will abide by the safe practices and procedures set forth therein. A school nurse employed by the public or private district or charter in which the student is enrolled shall:
  - 5.1.2.1 Complete instructor training as designated by the Department of Education and shall submit a list of educators and other school employees, who have completed the training, to the Department of Education.
  - 5.1.2.2 Provide the training for educators and other school employees.
  - 5.1.2.3 Coordinate the collection and review of the written parental consent.
  - 5.1.2.4 Provide the appropriately labeled medication, copy of the consent, and directions on assistance to the trained educator or other school employee.
- 5.1.3 Each school district shall maintain a record of all students receiving assistance with medication pursuant to this regulation. Said record shall contain the student's name; the name of the medication; the dose; the time of administration; the method of administration; and the name of the person assisting.
- 5.1.4 Except for a school nurse, no educator or other school employee shall be compelled to assist a student with medication. If a facility is otherwise required to have a school nurse, nothing contained here shall be interpreted to relieve the school of such obligation.

Nonregulatory note: 14 DE Admin. Code 612, *Possession, Use and Distribution of Drugs and Alcohol* addresses student self-administration of a prescribed asthmatic quick relief inhaler and student self-administration of prescribed autoinjectable epinephrine.

**7 DE Reg. 68 (07/01/03)**

**10 DE Reg. 1802 (06/01/07)**

**16 DE Reg. 696 (01/01/13) (Prop.)**