



Administering Medicine

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Background

Administering medicine to children and adolescents while on the premises of local schools is an inescapable reality for contemporary educators. The increasing incidence of students needing to take medicine during the course of a school day has forced school systems (and some state legislatures) to enact and implement regulations and policies addressing the matter.

A professional research study published in the November 2000 issue of *Journal of School Health*, based on a random sample of 1000 members of the National Association of School Nurses (with 65 percent responding), reported that during a typical school day, 5.6 percent of children receive medication in school. The most reported medications administered within school settings were (in descending order) ADHD medications (for Attention Deficit Hyperactivity Disorders); nonprescription medications; asthma medications; analgesics, and anti-seizure medications. Also common were antibiotics and vitamins.

Seriously ill and/or heavily medicated students are rarely allowed to attend classes, so the issues do not center on them. But for those children who are only marginally ill or disabled, the issue pits educational systems against society at large. Schools must consider safeguarding other children and staff from contagious disease, the prevention of disruption in the classroom by students exhibiting symptoms of illness, the control of cross-medicating (the sharing or selling of medication between classmates); and the potential for self-medication abuse while on school premises. On the other side of the issue, the social realities of the increasing number of households with two working parents (or single working parent households), coupled with employment that does not allow for "sick day" benefits to attend to children's illnesses, often results in sick children being sent to school, with or without medication to take.

Seventy-five percent of reporting nurses in the 2000 study delegated medication administration to unlicensed assistive personnel (UAPs), with secretaries (66 percent) being the most common. Errors in administering medications were reported by nearly 50 percent of the school nurses, the most common error being missed doses (79 percent). Errors were commonly reported to local school and/or state authorities.

Faced with the growing problem of exposure to liability in conjunction with the administration of medicine (and in many circumstances, the administration of controlled substances), schools have mobilized over the years and demanded both guidance and protection from liability by state legislatures. Not all states have addressed the issue at the state level, and persons needing information are best advised to start with their local school districts.

General Policy Overview

- As of 2001, no national laws or regulations govern school administration of medication. However, national guidelines available for local [ADOPTION](#) were published at least as early as 1990.
- Guidelines may be found at either state or local levels. Most local policies are developed by school boards, superintendents, individuals, and other school personnel, in collaboration with local physician or medical advisory committees. When individuals searching for applicable policies or regulations, they should always start at the local level and work up.
- According to a 2001 U.S. Congressional Sub-committee report, a total of 37 states and the District of Columbia have statutes, regulations, and/or mandatory policies addressing medication administration at schools.
- Many states have [SOVEREIGN IMMUNITY](#) laws that shield public employees, including school personnel and nurses, etc., from liability for [NEGLIGENCE](#). Local procedures and policies generally require parents' signatures to release school districts and employees from liability.
- Many state and local policies permit "delegation" of medication administration (usually restricted to licensed nurses) to trained but unlicensed assistive personnel (UAPs) within school settings. They may be school principals, teachers, secretaries, or administrative assistants within the health services office., school principals, or teachers. Certain duties cannot be delegated, such as secured storage of controlled substances.
- Self-administration policies vary greatly from state to state and within school districts. Many require student assessment for age and maturity; others simply require authorizations from prescribers and parents. Almost all include signed releases of liability.
- States may require compulsory medication, in the form of immunizations/vaccinations of school children, as prerequisites to school attendance. As of 2000, 23 states had passed immunization requirements for hepatitis B vaccinations. Many had additional requirements for measles, varicella, tetanus, and diphtheria. Schools may offer free or low-cost immunizations to students in conjunction with these requirements.

Authority

Federal law mandates that children with health needs receive school health services, e.g., the Education of All Handicapped Children Act of 1975 (P.L. 94-142); Section 504 of the Rehabilitation Act of 1973 (P.L. 93-112). But federal law does not specifically address the administering of medicine at the individual school level. Administering medicine entails physically providing it to the ultimate user, the patient.

Federal laws and regulations that do not expressly address, but, nonetheless impact, the administration of medication within schools deal mostly with controlled substances. They include:

- The Controlled Substances Act, 21 U.S.C. 801
- The Uniform Controlled Substances Act of 1994, 21 U.S.C. 802
- Title 21 (Food and Drugs) of the **CODE OFFEDERAL REGULATIONS**, Chapter II (Drug Enforcement Administration, Section 1300 (21 CFR 1300.01 et seq.)

The above federal references identify and define those substances included as "controlled substances" (any drug as defined in the five categories of the Acts). They include all opiates and their derivatives, hallucinogenic substances, anabolic steroids, and several psychotropic substances. Within school settings, most drugs used to treat ADHD are controlled substances, [AS IS](#) Ritalin. Controlled substances generally fall under the purview of local drug enforcement agencies, which derive their ultimate authority from the Federal Drug Enforcement Administration.

But students who need medications administered to them during the school day already have legal possession (or their parents do) of any controlled substances. The school's role is therefore limited to ensuring safe [CUSTODY](#), storage, and administering of the medication, once a valid authorization is received from parents/physician.

Most states have enacted statutes that delegate to school systems and school boards the authority to implement local policies addressing the administration of medicine on school premises. But those regulations and policies must comply and coordinate with state laws concerning the "unauthorized practice of medicine" or "unauthorized practice of nursing."

In 1990, the Office of School Health Programs at the University of Colorado Health Science Center published national recommendations for school-based administration of medications to students. The recommendations encouraged local policy development with direct involvement of parents and the public.

In 1993, the American Academy of Pediatrics Committee on School Health published its policy statement, *Guidelines for the Administration of Medication in School* (RE9328) (reaffirmed in June 1997). The purpose of the policy statement was to assist state legislators and local school boards in establishing somewhat uniform approaches to the growing concern. As noted in the statement, "For most students, the use of medication will be a convenient benefit to control acute minor or major illnesses, allowing a timely return to the classroom with minimal interference to the student and to others."

Common Provisions

Typical state or local policies contain certain key provisions; the two most basic requirements are parental consent and a medication order from the prescribing physician (dentist, physician assistant, nurse practitioner, etc.). Most regulations or policies require that a medication plan be completed by the school nurse or health service employee and that it contains minimum required information such as emergency contacts and telephone numbers, allergies and known side effects, the quantity of the medication delivered to the school, plans for administering medication on school field trips or planned events, and information on self-administration. An individual student log, documenting dates and times of administered medicine, is usually part of the plan on file and ultimately becomes part of the school health record.

Requirements for self-administration of medications evoke more controversy. Students who suffer from asthma and similar respiratory illnesses may suffer undue panic or anxiety attacks when separated from their inhalers. On the other hand, a few asthmatic (and other) students nationwide have been known to sell off their medications to fellow students looking for a "high" or quick thrill. In schools where students are permitted to keep asthma medication close at hand, there are generally strict instructions as to where the medication may be stored (e.g., locker or backpack) and (sometimes) reserved rights on the part of the school to monitor self-administration. (If schools retain an "overseeing" role in self-medication, they may expose themselves to more liability if they are not protected with [IMMUNITY](#)).

Policies generally should require that all medication brought to school, whether prescriptive or over-the-counter (OTC), remain in original labeled containers. Of key concern is the access to life-sustaining medications administered by injection, such as insulin and epinephrine (to respond to treat emergency allergic reactions). All parenteral medications and drugs controlled by the Drug Enforcement Agency must be appropriately secured by the schools (and many of them require refrigeration, as well). In such circumstances, even those students approved for self-administration must report to a school representative to receive the required medication and any dosage paraphernalia (such as a syringe) if needed. Medication dosages/pills should be counted upon arrival and recounted when tendered to school employees.

State Laws

ALABAMA: The state has published "recommended guidelines" prepared by an advisory task force comprised of members from Alabama's State Department of Education and the Alabama Department of Public Health. The policy differs from others in that it expressly notes that school nurses may not delegate the administration of medications to unlicensed personnel, pursuant to Alabama's Nurse Practice Act (Title 34-21-1) and the 1993 state guidelines for Delegation of Nursing Functions to Assistive Personnel. The guidelines "are not meant to be regulatory" for local education agencies (LEAs), but intend to offer "best practice" recommendations. The guidelines allow for self-administration of prescription medication by students if permitted by local school board policy. The guidelines are available at <http://www.schoolhealth.org/adminmed.html>.

ALASKA: No applicable provisions.

ARIZONA: Title 15 of the Arizona Revised Statutes, Chapter 15-344, provides for the administration of prescription, [PATENT](#), or [PROPRIETARY](#) medications by school employees. The law delegates authority to establish policies and procedures to local school district governing boards.

ARKANSAS: No applicable provisions.

CALIFORNIA: The California Education Code 49423, 49423.6 requires the state board of education to adopt regulations regarding the administration of prescription medication in public schools. There is no express delegation of authority.

COLORADO: Colorado Dept. of Reg. Agencies, Chapter XIII, Section 7, and Colorado Board of Health Regulations, Chapter 9, Section 105, address school administration of medications. There is no express delegation of authority.

CONNECTICUT: Connecticut General STATUTE 10-212a, as well as Connecticut State Agencies Regulation 10-212a-2, 5, and 6 authorize school boards of education to adopt written policies. A new Connecticut law passed in 2001 (the first of its kind in the nation) expressly prohibits teachers, counselors, and other school personnel from recommending psychiatric drugs for schoolchildren. The state requires schools to document any skipped dose and the reasons for it.

DELAWARE: The Code of Delaware Regulations 72-000-008, Section 800-9, is applicable to school nurses; there is no express delegation of authority.

DISTRICT OF COLUMBIA: D. C. Code 31-2432 to 2434 requires the D. C. Board of Education and Department of Human Services to issue joint rules and regulations. D.C. schools must obtain authorization from the student's parent or [GUARDIAN](#), as well as orders/instructions from the licensed physician before administering medication.

FLORIDA: Florida Statutes Annotated 232.46 requires district school boards to adopt local policies and procedures.

GEORGIA: No applicable provisions.

HAWAII: Hawaii Revised Statute 321-242 establishes a statewide school health services program, including statewide requirements for medication administration. Hawaii Administrative Code 11-146-4 is also applicable.

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IDAHO: No applicable provisions.

ILLINOIS: 105 Illinois Compiled Statutes Annotated 5/10-20.14b requires school boards to develop local policies for school administration of medication.

INDIANA: Indiana's 511 Indiana Administrative Code 7-21-8 establishes written medication administration policies for public schools operating special education programs only.

IOWA: Iowa Administrative Code 41.12(11) requires local education agencies offering special education programs to establish medication administration policies.

KANSAS: No applicable provisions.

KENTUCKY: No applicable provisions.

LOUISIANA: Louisiana Revised Statute 17:436.1 prescribes policies for delegating of administration of medications in schools to unlicensed personnel. Louisiana Administrative Code 28:1.929 requires school boards to establish guidelines consistent with state policy.

MAINE: 20-A Maine Revised Statutes Annotated, Section 254, Subsection 5, requires schools to adopt local written policies and procedures.

MARYLAND: The Annotated Code of Maryland, Education 7-401, in conjunction with Administrative Regulation 13A.05.05.08, and.10 require county boards of education to adopt policies for administration and storage of medication within school systems.

MASSACHUSETTS: Massachusetts was one of the earliest to have a statute in place, dating from the early 1970s. New regulations were promulgated in 1993, and old ones were updated. Four statutes in the Massachusetts General Laws are pertinent. Chapter 71, Section 53, requires registered nurses in all public school districts; Chapter 94C, the Controlled Substance Act, gives the Commissioner of Public Health authority to make certain exceptions for delegation of duties to unlicensed personnel; Chapter 112 (The Nurse Practice Act) has been amended to include regulations governing the delegation of nursing tasks; and Chapter 71, Section 54B contains registration requirements for students receiving medications. 105 Code of Massachusetts Reg. 210.003 to 210.009 requires schools to adopt local policies consistent with the above laws and regulations.

MICHIGAN: MCL 380.1178 (Revised School Code, Act 451 of 1976) was amended in March 2000, to provide immunity from criminal or civil actions for school personnel who administer medication to pupils pursuant to parent/physician authorizations and instructions. The law does not protect [GROSS NEGLIGENCE](#) or willful and wanton misconduct. There is no express delegation of authority.

MINNESOTA: Minnesota Statutes Annotated 121A.22 requires local school boards to develop prescription medication administration procedures in conjunction with health care professionals.

MISSISSIPPI: No applicable provisions.

MISSOURI: Chapter 167 of the Missouri Revised Statutes, "Pupils and Special Services," Section 167.627 (August 2001) addresses state requirements of self-administered medications for asthma "or other potentially life-threatening respiratory illnesses." Section 167.181 discusses compulsory immunizations. Section 167.191 expressly prohibits children with contagious diseases from attending school, with penalties of "not less than five nor more than one hundred dollars" for violations.

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MONTANA: No applicable provisions.

NEBRASKA: Nebraska Revised Statutes 71-6718 to 6742, in conjunction with Nebraska Administrative Code, Chapters 59 and 95, regulate the administration of medication in schools by unlicensed personnel through competency assessments and procedural requirements.

NEVADA: Nevada Administrative Code 632.226 requires school nurses (rather than local school boards) to develop procedures.

NEW JERSEY: Concerning self-administration of medication by school pupils for asthma, **PUBLIC LAW 2001, c.061 (S1372 2R)** amends Public Law 1993, c.308, and supplements Chapter 40 of Title 18A of the New Jersey Statutes. In addition, New Jersey Administrative Code 6A:16-2.3 requires district boards of education to adopt written policies.

NEW MEXICO: New Mexico, through its 6 N.M. Administrative Code 4.2.3.1.11.3.2(d) requires the supervisory school nurse to develop and implement written policies and procedures for clinical services, including the administration of medication.

NEW YORK: No applicable provisions.

NORTH CAROLINA: North Carolina General Statute 115C-307(c) authorizes school boards of education to permit school personnel to administer prescriptive medications with parents' written authorizations.

NORTH DAKOTA: No applicable provisions.

OHIO: Ohio Revised Code 3313.713 requires local school boards of education to adopt policies permitting school employees to administer medication. In February 2000, Ohio became the 50th state to allow advanced-practice nurses to prescribe medication (under physician supervision). In school settings, they have no independent authority to prescribe.

OKLAHOMA: Under 70 Oklahoma Statutes Annotated 1-116.2, school nurses and other school personnel must administer medications according to [STATUTORY](#) requirements, which contain no express delegation of authority.

OREGON: Oregon Revised Statutes 339.869 and 339.870, in conjunction with Oregon Administrative Rule 581-021-0037, require local school district boards to adopt policies.

PENNSYLVANIA: Pennsylvania has no statutory authority, but it has a regulation, 22 Pa. Code 7.13 that requires school districts to develop medication administration policies that are consistent with state department of health guidelines. Title 24 (Education) of the Pennsylvania Consolidated Statutes Annotated, PSA 24-13, Article XIV, School Health Services, Sections 13-1413 and 13-1414 address supplemental duties of school physicians and care and treatment of pupils.

RHODE ISLAND: Title 16 (Education), Chapter 16-21 (Health and Safety of Pupils), Section 16-21-22 provides for self-medication by students who have provided schools with medical documentation. The law also provides for immunity from civil damages for those negligently administering epinephrine or prescription inhalers; it does not protect gross negligence or willful/wanton conduct from liability. The Code of R.I. Rules 14-000-011, Section 18 requires schools to develop procedures that include specified minimum requirements.

SOUTH CAROLINA: No applicable provisions, but the Charleston County School District has policies comparable to most states.

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SOUTH DAKOTA: Article 46:13 addresses medication administration, including self-administration, through delegation of tasks generally within the purview of licensed registered nurses. There is no express mention of application to schools.

TENNESSEE: Tennessee Code Annotated 49-5-415 requires licensed health care professionals to administer medications, but school boards may authorize unlicensed personnel to assist students with self-administration.

TEXAS: House Bill 1688, signed into law by Governor Perry in June 2001, amends Texas Chapter 38, Education Code, to add provisions regarding self-administration of prescription asthma medicine by public school students while on school property or at school-related events or activities. School-based Health Centers and their services are generally discussed in Chapter 38.011. Texas Education Code 22.052 provides for immunity from civil liability conditioned upon the adoption of compliant school district policies.

UTAH: Utah Code Annotated 53A-11-601 authorizes schools to develop policies.

VERMONT: Vermont has no statutory guidance, but Code of Vermont Rule 22-000-006, Section 4220, requires schools to incorporate specified procedures into their local administration regulations.

VIRGINIA: The Code of Virginia, as amended, Section 22.1-274.2 and Section 22.1-78, address self-administration by students of asthma medication; permissions are granted for each school year and renewed annually. The Code delegates to local school superintendents the authority to establish additional regulations for administration of medicines to students. The Code of Virginia 54.1-3408 authorizes school boards to train employees to administer drugs.

WASHINGTON: The Revised Code of Washington, RCW 28A.210.260, addresses administration of oral medication in public and private schools. It delegates policy-making to public school districts and private schools. RCW 28A.210.270 expressly provides for immunity from liability for school employees.

WEST VIRGINIA: West Virginia Code of State Rules 126-25-1 and 126-27-1 establish standards for administration of oral, topical, and emergency medication in West Virginia public schools by persons not licensed as health care providers. Code 18-5-22a requires school boards of education to develop policies.

WISCONSIN: Wisconsin Statute 118.29 requires school boards to develop policies, including authorizing school employees to administer medications.

WYOMING: The Wyoming Administrative Code, Education, Chapter 6, Section 17(a)(i)(F) requires school districts to establish local programs for handling, storage, and administration of medications.

Additional Resources

"Appendix VI: State Statutes, Regulations, and Mandatory Policies Addressing the Administration of Medication to Students." U. S. Government Printing Office, GAO Publication-01-1011. Available at <http://www.gao.org>

"Few Incidents of Diversion or Abuse Identified by Schools." Jones, Paul L., FDCH Government Account Reports, 14 September 2001. Available at http://www.law.cornell.edu/topics/civil_procedure.html

"Guidelines for the Administration of Medication in School (RE9328)." Policy Statement of the American Association of Pediatrics. 1993, 1997. Available at http://www.law.cornell.edu/topics/civil_procedure.html

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"Medication Administration Practices of School Nurses." McCarthy, Ann Marie, et al. Journal of School Health, November 2000.

U. S. Code, Title 21: Food and Drugs, Chapter 17: National Drug Enforcement Policy. U. S. House of Representatives. Available at http://uscode.house.gov/title_21.htm

"Who Dispenses Pharmaceuticals to Children?" Esielion, Elaine, and Joanna Persis Hemmat. Journal of School Health, December 1996.

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