

# MAINE STATE LEGISLATURE

The following document is provided by the  
**LAW AND LEGISLATIVE DIGITAL LIBRARY**  
at the Maine State Law and Legislative Reference Library  
<http://legislature.maine.gov/lawlib>



Reproduced from scanned originals with text recognition applied  
(searchable text may contain some errors and/or omissions)

---

---

# ONE HUNDRED AND EIGHTH LEGISLATURE

---

---

## Legislative Document

No. 1389

H. P. 1236

House of Representatives, April 7, 1977

Reported by Mr. Goodwin from the Committee on Health and Institutional Services. Pursuant to H. P. 2357 printed under Joint Rules No. 17.

EDWIN H. PERT, Clerk

Filed by the Joint Standing Committee on Health & Institutional Services, under Joint Rule 17, pursuant to H. P. 2357.

---

---

## STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED  
SEVENTY-SEVEN

---

### AN ACT Relating to the Administration of Medication.

---

Be it enacted by the People of the State of Maine, as follows:

Sec. 1. 20 MRSA § 102, sub-§ 18 is enacted to read:

18. Administration of medication. To establish rules and regulations for the administration of medication in any public or private schools which have courses of study approved under subsection 7. No medication shall be administered by unlicensed personnel at these schools except as provided by the written prescription of a physician or dentist or by the written permission of the parent or guardian of the individual receiving the medication. Rules and regulations for the administration of medication shall be established in accordance with the administrative code as provided in Title 5.

Sec. 2. 22 MRSA § 42, sub-§ 1-A is enacted to read:

1-A. Administration of medication. The administration of medication in boarding care facilities, drug treatment centers, day care facilities, children's homes and nursery schools shall be in accordance with rules and regulations established by the department. In other facilities licensed or approved by the department, excluding those facilities licensed under section 1811, the department may establish rules and regulations for the administration of medication as it deems necessary. In establishing rules and regulations for each type of facility, the department shall consider, among other factors, the general health of the persons likely to receive medication, the number of persons served by the facility and the number of persons employed at the facility who might be involved in the administration of medication. Any rules and

regulations for the administration of medication shall be established in accordance with the administrative code as provided in Title 5.

**Sec. 3.** 22 MRSA § 1812-B is enacted to read:

**§ 1812-B. Hospitals and nursing homes**

The administration of medication in facilities licensed under section 1811 may be delegated to unlicensed personnel when such personnel have received appropriate training and instruction and the programs of training and instruction have been approved by the State Board of Nursing. Delegation of the administration of medication shall not require the personal presence of the delegating professional nurse at the place where this service is performed, unless such personal presence is necessary to provide patient care of the same quality as provided by the professional nurse. The board shall issue such rules and regulations concerning delegation as it deems necessary to insure the highest quality of health care to the patient.

**Sec. 4.** 22 MRSA § 7902, sub-§ 1, as enacted by PL 1975, c. 719, § 6, is amended to read:

**1. Rules promulgated.** The commissioner shall promulgate rules for boarding care facilities, which shall include but need not be limited to rules pertaining to administration, staffing, the number of residents, the quality of care, the quality of treatment, if applicable, the health and safety of staff and residents, the rights of residents, community relations, **the administration of medication and licensing procedures.**

In establishing the rules for the administration of medication, the commissioner shall consider, among other factors, the general health of the persons likely to receive medication, the number of persons served by the facility and the number of persons employed by the facility. In the rules for the administration of medication established for boarding care facilities with 15 or more residents, the Department of Human Services shall require unlicensed personnel to have successfully completed a program of training and instruction for the administration of medication which is not limited to in-service training.

**Sec. 5.** 22 MRSA § 8002, sub-§ 1, as enacted by PL 1975, c. 719, § 6, is amended to read:

**1. Rules promulgated.** The commissioner shall promulgate rules for drug treatment centers, which shall include but need not be limited to rules pertaining to administration, staffing, number of residents, quality of treatment programs, health and safety of staff and residents, community relations, **the administration of medication and licensing procedures.**

**Sec. 6.** 22 MRSA § 8102, sub-§ 1, as enacted by PL 1975, c. 719, § 6, is amended to read:

**1. Rules promulgated.** The department shall promulgate rules for children's homes, which shall include but need not be limited to rules pertaining to the health and safety of the children and staff, the quality of care provided, **the administration of medication and licensing procedures.**

Sec. 7. 22 MRSA § 8302, sub-§ 1, as enacted by PL 1975, c. 719, § 6, is amended to read:

**1. Rules promulgated.** The commissioner shall promulgate rules for day care facilities which shall include but need not be limited to rules pertaining to the health and safety of the children and staff, the quality of the program provided, **the administration of medication** and licensing procedures.

Sec. 8. 22 MRSA § 8402, sub-§ 3, ¶ F is enacted to read:

F. The nursery school shall comply with rules and regulations for the administration of medication as established by the department.

Sec. 9. 22 MRSA § 8402-A is enacted to read:

§ 8402-A. Rules and regulations

The department shall establish rules and regulations for the administration of medication in nursery schools.

Sec. 10. 32 MRSA § 2102, sub-§ 2, ¶ F, as amended by PL 1973, c. 737, § 1, is further amended by adding at the end the following new sentence:

**Nothing in this section shall be construed as limiting the administration of medication by licensed or unlicensed personnel as provided in other statutes.**

Sec. 11. 32 MRSA § 2258-A, as amended by PL 1975, c. 698, § 5, is further amended to read:

§ 2258-A. Administration of medication

Any employee of any institution under the control of the Department of Mental Health and Corrections or of an institution licensed by the State as **a hospital, nursing home, extended care facility or boarding home** who, in the exercise of due care, is authorized by the head of such institution or his designee to perform selected activities in the administration of medications and any person who, in the exercise of due care, is delegated such functions by a licensed allopathic or osteopathic physician shall be immune from criminal prosecution and civil liability for any such administration of medication prior to ~~July 1, 1977~~ January 1, 1978, but not thereafter.

Sec. 12. 34 MRSA § 7-A is enacted to read:

§ 7-A. Administration of medication

The administration of medication in facilities operated by the Department of Mental Health and Corrections shall be in accordance with rules and regulations established by the department. In establishing rules and regulations for each type of facility, the department shall consider, among other factors, the general health of the persons likely to receive medication, the number of persons served by the facility and the number of persons employed at the facility. Rules and regulations for the administration of medication shall be established in accordance with the administrative code as provided in Title 5.

### STATEMENT OF FACT

This bill is the result of a study of the administration of medication carried out by the Health and Institutional Services Committee. The purpose of this

bill is to establish the different conditions under which unlicensed personnel may administer medication in a variety of facilities. The bill requires that the medication will be administered as follows:

1. Hospitals and nursing homes: In other than facilities operated by the State, medication will be administered according to rules established by the State Board of Nursing;

2. Boarding homes: Medication will be administered according to rules established by the Department of Human Services. In boarding homes with more than 15 beds, the rules must require more than in-service training for any person who is to administer medication;

3. Facilities other than those in 1 and 2 licensed or approved by the Department of Human Services: The department is directed to establish rules for the administration of medication in **certain of these facilities (drug treatment centers, day care facilities, children's homes and nursery schools)** and is authorized to establish rules for others where they are deemed necessary;

4. State hospitals and institutions: The Department of Mental Health and Corrections is directed to establish rules for the administration of medication in the facilities which it operates;

5. Schools: The Commissioner of Educational and Cultural Services is directed to establish rules for the administration of medication in any schools for which the department approves programs; and

6. County jails: The existing law relating to county jails is left unchanged.