

MAINE STATE LEGISLATURE

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1 FIRST REGULAR SESSION
2

3 ONE HUNDRED AND TWELFTH LEGISLATURE
4

5 Legislative Document

No. 1028
6

7 H.P. 718

House of Representatives, March 13, 1985

8 Submitted by the Department of Educational and Cultural Services
pursuant to Joint Rule 24.

9 On Motion of Representative Brown of Gorham, referred to the
Committee on Education. Sent up for concurrence and ordered printed.

EDWIN H. PERT, Clerk

Presented by Representative Brown of Gorham.

10 Cosponsored by Senator Brown of Washington, Representative Handy of
Lewiston and Representative Foss of Yarmouth.
11

12 STATE OF MAINE
13

14 IN THE YEAR OF OUR LORD
15 NINETEEN HUNDRED AND EIGHTY-FIVE
16

17 AN ACT to Improve the Laws on School Health
18 Programs.
19

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

22 Sec. 1. 20-A MRSA §6402, as enacted by PL 1981,
23 c. 693, §§5 and 8, is repealed.

24 Sec. 2. 20-A MRSA §6402-A is enacted to read:

25 §6402-A. School physician

26 Each school board shall appoint one or more
27 school physicians.

28 1. Duties. The school physician shall advise
29 the administrative unit on school health issues, po-
30 licies and practices and may also perform any other
31 health-related functions assigned by the board.

1 2. Other functions. A school physician may per-
2 form other medical and health-related duties assigned
3 by the school board which may include all or some of
4 the following:

5 A. Examine and diagnose students referred by
6 teachers and other school employees to protect
7 against the outbreak of contagious diseases in
8 the schools;

9 B. Examine students for participation in physi-
10 cal education and athletic activities;

11 C. Advise and serve as medical consultant to the
12 school nurse; or

13 D. Examine school employees and property if the
14 physician believes it is necessary to protect the
15 health of students.

16 3. Prohibition. A school physician may not
17 treat any student examined under this subchapter un-
18 less the physician is also the student's personal
19 physician.

20 4. Appointment. Appointment shall be on a year-
21 ly basis.

22 Sec. 3. 20-A MRSA §6403, as enacted by PL 1981,
23 c. 693, §§5 and 8, is repealed.

24 Sec. 4. 20-A MRSA §6403-A is enacted to read:

25 §6403-A. School nurse

26 Each school board shall appoint at least one
27 school nurse for the school administrative unit.

28 1. Duties. The school nurse shall supervise and
29 coordinate the health services and health-related ac-
30 tivities required by this Title.

31 2. Other functions. The school nurse shall also
32 perform such other health-related activities as are
33 assigned by the school board.

1 3. Appointment. To fulfill the role of school
2 nurse, the school board shall appoint a registered
3 professional nurse who meets any additional certifi-
4 cation requirements established by the state board.

5 4. Special contract for services. The school
6 board may provide school nurse services through spe-
7 cial agreements with a public health agency. All
8 nurses who serve as school nurses under those agree-
9 ments shall be registered professional nurses who
10 meet applicable certification requirements.

11 5. Guidelines. The commissioner shall issue
12 guidelines on the provision of school health services
13 and health-related activities and the functions of
14 school nurses.

15 Sec. 5. 20 MRSA §6551, sub-§1, ¶¶C and D are en-
16 acted to read:

17 C. "Employed," for purposes of this section,
18 means engaged to work in a public or private
19 school in any position requiring regular physical
20 presence within the school or exposure to school
21 children.

22 D. "Superintendent," for purposes of this sec-
23 tion, means all superintendents of schools, di-
24 rectors of vocational regions and chief adminis-
25 trative officer of private schools within the
26 State.

27 Sec. 6. 20-A MRSA §6551, sub-§2, as enacted by
28 PL 1981, c. 693, §§5 and 8, is repealed and the fol-
29 lowing enacted in its place:

30 2. Exclusion from school. No person with infec-
31 tious tuberculosis may be employed in any elementary
32 or secondary school in the State.

33 Sec. 7. 20-A MRSA §6551, sub-§4, as enacted by
34 PL 1981, c. 693, §§5 and 8, is repealed and the fol-
35 lowing enacted in its place:

36 4. New employees. The following provisions ap-
37 ply to new employees.

1 A. No person may begin employment in a school in
2 this State without a demonstration that he is
3 free of contagious tuberculosis in the manner de-
4 scribed in this subsection.

5 B. Each person prior to employment shall file
6 with the superintendent a certificate which indi-
7 cates that the person has had, within 90 previous
8 days, a standard tuberculin skin test and meets
9 one of the following conditions:

10 (1) The test was negative;

11 (2) The test was positive but a subsequent
12 chest x ray was negative;

13 (3) The test was positive and a subsequent
14 abnormal chest x ray showed no active tuber-
15 culosis; or

16 (4) The person has evidence of completion
17 of preventive chemotherapy.

18 C. A person whose previous employment within 90
19 days was in another school in the State may
20 transfer his certificate to the new school and
21 need not undergo a new test or x ray.

22 Sec. 8. 20-A MRSA §6551, sub-§5, ¶A, as enacted
23 by PL 1981, c. 693, §§5 and 8, is repealed and the
24 following enacted to read:

25 A. A person employed in a school who has a posi-
26 tive tuberculin test and an abnormal chest x ray
27 must submit evidence of a chest x ray that shows
28 no active tuberculosis to the superintendent on
29 or before December 1st, biennially, or evidence
30 of completion of preventive chemotherapy.

31 Sec. 9. 20-A MRSA §6551, sub-§6, as enacted by
32 PL 1981, c. 693, §§5 and 8, is amended to read:

33 6. Modifications. The Commissioner of Human
34 Services may alter the requirements of this section
35 wherever for any geographic area of the State
36 whenever that alteration would not pose a threat to
37 public health or wherever whenever more frequent

1 testing is necessary to protect the public health.
2 Modifications under this subsection may not extend
3 beyond 4 years. They may not be renewed unless in
4 writing and shall be included in any rules adopted
5 pursuant to subsection 9.

6 Sec. 10. 20-A MRSA §6551, sub-§8, as enacted by
7 PL 1981, c. 693, §§5 and 8, is amended to read:

8 8. Duty of school officials. Each school admin-
9 istrative unit superintendent shall provide tubercu-
10 losis testing data to the Department of Human Ser-
11 vices on the department's request.

12 STATEMENT OF FACT

13 Sections 1 and 2 revise provisions of the Maine
14 Revised Statutes, Chapter 20-A, pertaining to school
15 physicians which are inconsistent and confusing. The
16 current law appears to require the appointment of
17 school physicians, but confuses this mandate by using
18 the qualifying phrase "provided funds have been ap-
19 propriated...." The law also states that one physi-
20 cian must be appointed "for every 1,000 students" in
21 the school unit. The current law then establishes
22 certain duties which must be performed by a "school
23 physician," examination and diagnosis of students re-
24 ferred for contagious diseases, and does not allow
25 schools the discretion to contract for a range of
26 medical duties. In fact, schools use school physi-
27 cians in a variety of ways, depending on the medical
28 resources available in the community and the locally
29 adopted school health policies. In some school units
30 the school physician is routinely used for sports
31 physicals, while in others school physicians serve
32 more in an advisory capacity.

33 Section 3 repeals a provision on the referral of
34 children for examination which is inconsistent with
35 the current laws. The important provisions relating
36 to contagious diseases are now found in the Maine Re-
37 vised Statutes, Title 20-A, sections 1001, sub-§11-A,
38 6301 and 6356 which require the exclusion of children
39 suffering from contagious diseases or appearing to
40 have diseases. Where there is a school physician, a

1 diagnosis may be made by the physician. This exclu-
2 sion of students would be made in accordance with the
3 Maine Revised Statutes, Title 20-A, section 6301 and
4 the policies adopted by the school board.

5 Section 4 requires the appointment of a school
6 nurse by every school administrative unit. This ex-
7 plicitly authorizes what is now recognized in other
8 provisions of the law, Maine Revised Statutes, Title
9 20-A, section 6401, on the state-level school nurse
10 consultant and the requirement law, and what is a
11 general practice. It insures that the many
12 health-related activities carried on in schools are
13 under the supervision of a qualified health special-
14 ist. Revision of the school physician section and
15 adoption of explicit language on school nurses was
16 recommended by a Task Force on School Health ap-
17 pointed by the School Nurse Consultant for the De-
18 partment of Educational and Cultural Services. This
19 task force included representatives of school nurses,
20 school physicians, the Maine Medical Association and
21 the Department of Human Services.

22 Sections 5 to 10 are intended to clarify the laws
23 relating to tuberculosis testing of school employees.

24 Section 5 adds 2 new definitions for clarity.

25 Section 6 states the general principle of the law
26 in clear language.

27 Section 7 clarifies the testing procedure for new
28 school employees.

29 Section 8 clarifies the procedure for persons who
30 have had positive tuberculin tests.

31 Section 9 clarifies the authority of the Commis-
32 sioner of Human Services. Special education programs
33 has concluded that with chief state school officers a
34 presumption arises that such persons are involved in
35 the education and care and are generally precluded
36 serving as state-level review officials.

1 Section 10 places the reporting duty on the
2 school superintendent, consistent with other legisla-
3 tion on school health services.

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