

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 electronic originals
(may include minor formatting differences from printed original)



127th MAINE LEGISLATURE

SECOND REGULAR SESSION-2016

Legislative Document

No. 1491

H.P. 1014

House of Representatives, December 23, 2015

**An Act To Allow Trained, Nonmedical Employees in Schools To
Administer Emergency Medications**

(EMERGENCY)

Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 203.

Received by the Clerk of the House on December 21, 2015. Referred to the Committee on Education and Cultural Affairs pursuant to Joint Rule 308.2 and ordered printed pursuant to Joint Rule 401.

Handwritten signature of Robert B. Hunt in cursive.

ROBERT B. HUNT
Clerk

Presented by Representative CHENETTE of Saco.
Cosponsored by Senator DUTREMBLE of York and
Representatives: BATTLE of South Portland, ESPLING of New Gloucester, GATTINE of
Westbrook, GIDEON of Freeport, NADEAU of Winslow, Senator: CYRWAY of Kennebec.

1 **Emergency preamble. Whereas,** acts and resolves of the Legislature do not
2 become effective until 90 days after adjournment unless enacted as emergencies; and

3 **Whereas,** this legislation needs to take effect before the expiration of the 90-day
4 period in order to protect the lives and health of students in this State; and

5 **Whereas,** in the judgment of the Legislature, these facts create an emergency within
6 the meaning of the Constitution of Maine and require the following legislation as
7 immediately necessary for the preservation of the public peace, health and safety; now,
8 therefore,

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

10 **Sec. 1. 20-A MRSA §6307** is enacted to read:

11 **§6307. Administration of emergency medication**

12 **1. School administrative unit may participate in program to provide emergency**
13 **medication to students.** In the absence of a school nurse or other licensed nurse on site
14 at a school, a school administrative unit may participate in a program to allow
15 nonmedical employees to volunteer to provide emergency medication to students, upon
16 request by a parent or guardian pursuant to subsection 2. If the school administrative unit
17 elects to participate in a program pursuant to this section, the school administrative unit
18 shall provide school employees who volunteer pursuant to this section with emergency
19 medical training, which must meet the requirements of subsection 12, to provide
20 emergency medication to students. A school employee with voluntary emergency medical
21 training shall provide the emergency medication using guidelines developed by the
22 department and posted on the department's publicly accessible website pursuant to
23 subsection 12 and the performance instructions set forth by the health care provider of the
24 student receiving the medication. A school employee who does not volunteer or who has
25 not been trained pursuant to subsection 12 is not required to provide emergency
26 medication pursuant to this section.

27 **2. Request by parent or guardian.** If a student with a medical condition has been
28 prescribed an emergency medication by that student's health care provider, the student's
29 parent or guardian may request that the student's school have one or more of its
30 employees receive training pursuant to this section in the administration of an emergency
31 medication in the event that the student suffers a medical emergency when a nurse is not
32 available.

33 **3. Notification to parent or guardian that child may qualify for services.**
34 Pursuant to Section 504 of the federal Rehabilitation Act of 1973 and the federal
35 Individuals with Disabilities Education Act, 20 United States Code, Section 1400 et seq.,
36 upon receipt of a parent's or guardian's request pursuant to subsection 2, the school
37 administrative unit shall notify the parent or guardian that the parent's or guardian's child
38 may qualify for services or accommodations under a Section 504 plan or an
39 individualized education program, assist the parent or guardian with the exploration of

1 that option and encourage the parent or guardian to adopt that option if it is determined
2 that the child is eligible for a Section 504 plan or an individualized education program.

3 **4. Verification of notice.** A school administrative unit may ask a parent or guardian
4 to sign a notice verifying that the parent or guardian was given information pursuant to
5 subsection 3 about Section 504 of the federal Rehabilitation Act of 1973 and the federal
6 Individuals with Disabilities Education Act, 20 United States Code, Section 1400 et seq.
7 and that the parent or guardian understands that it is the parent's or guardian's right to
8 request a Section 504 plan or an individualized education program at any time.

9 **5. School administrative unit may create plan.** If a parent or guardian does not
10 choose to have the parent's or guardian's child assessed for a Section 504 plan or an
11 individualized education program pursuant to subsection 3, the school administrative unit
12 may create an individualized health plan, seizure action plan or other appropriate health
13 plan designed to acknowledge and prepare for the child's health care needs in school. The
14 plan may include the involvement of trained volunteer school employees or a licensed
15 nurse.

16 **6. Training of employees.** In training employees pursuant to this section, the school
17 administrative unit shall ensure that:

18 A. Each employee who volunteers receives training from a licensed health care
19 professional regarding the administration of emergency medication. An employee
20 who has completed training shall, if that employee has not administered an
21 emergency medication within the prior 2 years and there is a student enrolled in the
22 school who may need the administration of an emergency medication, attend a
23 training program again to retain the ability to administer an emergency medication;

24 B. An agreement by an employee to administer an emergency medication is
25 voluntary. An employee of the school administrative unit or an employee of the
26 department may not directly or indirectly use or attempt to use that person's authority
27 or influence for the purpose of intimidating, threatening, coercing or attempting to
28 intimidate, threaten or coerce any employee who does not choose to volunteer,
29 including, but not limited to, direct contact with the employee;

30 C. An employee who volunteers pursuant to this section may rescind that employee's
31 offer to administer an emergency medication up to 3 days after the completion of the
32 training. After that time, the employee may rescind that employee's offer to
33 administer an emergency medication with a 2-week notice; and

34 D. An electronic notice is distributed no more than twice per school year per student
35 who might need emergency medication to all employees that includes the following
36 information in bold print:

37 (1) A statement that the notice is a request for volunteers to administer
38 emergency medication to a student experiencing a medical emergency in the
39 absence of a school nurse;

40 (2) A description of the training that the volunteer will receive pursuant to
41 paragraph A;

1 (3) A description of the voluntary nature of the program that includes the
2 information described in paragraph B; and

3 (4) The volunteer rescission timelines described in paragraph C.

4 The electronic notice is the only means by which a school administrative unit may
5 solicit volunteers.

6 **7. Completion of training.** An employee who volunteers pursuant to this section is
7 not required to administer an emergency medication until completion of the training
8 program adopted by the school administrative unit and documentation of completion is
9 recorded in that employee's personnel file.

10 **8. Defense and indemnification.** If a school administrative unit elects to participate
11 in a program pursuant to this section, the school administrative unit shall ensure that an
12 employee who volunteers under this section is provided defense and indemnification by
13 the school administrative unit for civil liability. This information must be reduced to
14 writing, provided to the employee and retained in the employee's personnel file.

15 **9. No volunteers.** If with respect to a school administrative unit's program under
16 this section there are no volunteers in a school attended by a student whose parent or
17 guardian has made a request pursuant to subsection 2, the school administrative unit shall
18 notify the student's parent or guardian again of the option to be assessed for services and
19 accommodations guaranteed under Section 504 of the federal Rehabilitation Act of 1973
20 and the federal Individuals with Disabilities Education Act, 20 United States Code,
21 Section 1400 et seq.

22 **10. Plan.** A school administrative unit that elects to participate in a program
23 pursuant to this section shall establish and maintain a school administrative unit plan,
24 which must include, but not be limited to, the following:

25 A. Identification of employees of the school administrative unit who could be trained
26 in the administration of emergency medication and could be available to respond to
27 an emergency need to administer emergency medication. The school administrative
28 unit shall consult with the department to obtain this information;

29 B. Identification of students who may require the administration of emergency
30 medication;

31 C. A requirement for written authorization from the parent or guardian of a student
32 for a nonmedical school employee to administer emergency medication to the
33 student;

34 D. A requirement that the parent or guardian of a student in the program notify the
35 school if the student has had an emergency medication administered within the past 4
36 hours on a school day;

37 E. A requirement for notification of the parent or guardian of a student in the
38 program, by the school principal or, if the principal is not available, by another school
39 employee, that an emergency medication has been administered to the student; and

40 F. A requirement for a written statement from the health care provider of a student in
41 the program that includes, but is not limited to, all of the following:

- 1 (1) The student's name;
- 2 (2) The name and purpose of the medication;
- 3 (3) The prescribed dosage;
- 4 (4) Detailed medical emergency symptoms that identify when the administration
5 of an emergency medication is necessary;
- 6 (5) The method of administration;
- 7 (6) The frequency with which the medication may be administered;
- 8 (7) The circumstances under which the medication may be administered;
- 9 (8) Any potential adverse reactions by the student and recommended mitigation
10 actions, including when to call emergency services;
- 11 (9) A protocol for observing the student after a medical emergency, including,
12 but not limited to, whether the student should rest in the school's main office,
13 whether the student may return to class and the length of time the student should
14 be under direct observation; and
- 15 (10) The requirement that, following a medical emergency, the student's parent
16 or guardian and the school nurse be contacted by the school principal or, if the
17 principal is not available, by another school employee to continue the observation
18 protocol as established in subparagraph (9).

19 **11. Compensation.** A school administrative unit shall compensate an employee
20 who administers emergency medication pursuant to this section, in accordance with that
21 employee's pay scale, when the administration of emergency medication or subsequent
22 monitoring of a student requires that employee to work beyond that employee's normally
23 scheduled hours.

24 **12. Training and supervision.** The following provisions govern the training and
25 supervision of school administrative unit employees in providing emergency medication
26 to students pursuant to this section.

27 A. The department, in consultation with the Department of Health and Human
28 Services, shall develop and maintain guidelines for the training and supervision of
29 school administrative unit employees in providing emergency medication to students
30 and shall post this information on the department's publicly accessible website. The
31 guidelines may be developed in cooperation with interested organizations. The
32 department shall make the guidelines available upon request.

33 B. The department shall include on its publicly accessible website a clearinghouse
34 for information on best practices in training nonmedical employees to administer
35 emergency medication to students.

36 C. Training established pursuant to this subsection must be consistent with the
37 guidelines developed pursuant to paragraph A and must include, but is not limited to,
38 training in the following:

- 39 (1) Recognition and treatment of different types of medical emergencies;

- 1 (2) Administration of emergency medication;
2 (3) Basic emergency follow-up procedures, including, but not limited to, a
3 requirement for the school principal or, if the principal is not available, another
4 school employee to call the E-9-1-1 system and to contact the affected student's
5 parent or guardian. The requirement for the school principal or other school
6 employee to call the E-9-1-1 system does not require a student to be transported
7 to an emergency room; and
8 (4) Techniques and procedures to ensure student privacy.

9 D. Any written materials used in the training established pursuant to this subsection
10 must be retained by the school administrative unit.

11 E. Training established pursuant to this subsection must be conducted by one or
12 more of the following:

- 13 (1) A physician;
14 (2) A physician assistant;
15 (3) A school nurse;
16 (4) A registered nurse; or
17 (5) A public health nurse.

18 F. Training provided in accordance with the emergency medication manufacturer's
19 instructions, the student's health care provider's instructions and guidelines
20 established pursuant to this subsection is adequate training for purposes of this
21 subsection.

22 **13. Notification of administration of emergency medication.** The following
23 provisions govern the notification of the administration of emergency medication
24 pursuant to this section.

25 A. The school principal or, if the principal is not available, another school employee
26 shall notify the school nurse appointed to the school administrative unit if an
27 employee at the school administers an emergency medication pursuant to this section.

28 B. If a school nurse is not appointed to the school administrative unit, the school
29 principal or, if the principal is not available, another school employee shall notify the
30 superintendent of the school administrative unit, or the superintendent's designee, if
31 an employee at the school administers an emergency medication pursuant to this
32 section.

33 C. A school administrative unit shall retain all records relating to the administration
34 of an emergency medication to a student pursuant to this section while the student is
35 under the supervision of school administrative unit employees.

36 **14. Duty of parent or guardian.** A student's parent or guardian shall provide to the
37 school administrative unit all materials necessary to administer an emergency medication
38 to the student pursuant to this section, including the information described in subsection
39 10, paragraph F. A school administrative unit is not responsible for providing any of the
40 necessary materials.

