

PENNSYLVANIA DEPARTMENT OF EDUCATION
OFFICE OF ELEMENTARY AND SECONDARY EDUCATION

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PENN*LINK

To: School District Superintendents
School District Special Education Directors
Intermediate Unit Executive Directors
Intermediate Unit Special Education Directors
Charter School Chief Executive Officers
Charter School Special Education Directors
Approved Private School Executive Directors
Chartered Schools for the Deaf and the Blind Executive Directors
Private Residential Rehabilitative Institution Executive Directors

From: Jill Clodgo, RN | Chief, Division of School Health

Subject: Clarification of Medication Administration and Delegation

It has come to our attention that some school nurses may have attended conferences where information is being shared that nurses may delegate medication administration to unlicensed personnel. Nothing has changed regarding the Department of Health, Division of School Health's advisement on this issue. When The Guidelines for Pennsylvania Schools for the Administration of Medications and Emergency Care was issued in 2010, it was accompanied by a letter signed by the Secretaries of Health and Education advising schools to align policies and procedures with this Guideline. This document is still in effect. The Guidelines may be accessed at the following link: <https://www.health.pa.gov/topics/school/Pages/Medications.aspx>

On page 5 of the guidelines on the subject of delegation it states:

Delegation of Task of Administration of Medication

Neither the Professional Nursing Law nor the Practical Nurse Law permits delegation of nursing functions. When the State Board of Nursing attempted to promulgate a regulation allowing a registered nurse to delegate certain nursing functions, including administration of medications, the proposed regulation was disapproved on the basis that the Board was exceeding its statutory authority. Accordingly, a certified school nurse or other licensed personnel (RN, LPN) cannot lawfully delegate the nursing function of medication administration to the principal, teacher, or administrative personnel.

Pertinent Department of Education Certification and Staffing Policy Guidelines (CSPGs) conform to state law. CSPGs clarify how schools are expected to comply with certification and staffing laws, regulations, court decisions, opinions of the Attorney General, administrative agency policy and administrative decisions of appeals taken from local education agency hearings. CSPG No. 101, applicable to paraprofessionals, states that —paraprofessionals serving as health room aides or other non-professional school district employees shall not be directed to engage in health-related activities reserved exclusively for licensed professionals and controlled by the Nurse Practice Act or other medically related laws. CSPG No. 95, applicable to a K-12 Principal, states that a principal holding a valid certificate is qualified to perform —supervision and direction of certified and non-certified staff

persons required for school operation *exclusive of directing health services controlled by the Nurse Practice Act.*

Section 13 – 1317 of the Public School Code addressing the doctrine of in loco parentis limits the authority of the teacher, vice-principal and principal to matters involving the conduct and behavior of the child, and does not extend that authority to other areas. 24 P.S. § 13-1317. School districts may not assign the medication administration function to the school administrators, teachers, or other personnel under the doctrine of —in loco parentis.

There are other reasons, in addition to legal constraints, not to permit administration of medication by someone who has no training. The primary reason is that administering medications requires the judgment and assessment skills of a licensed nurse. Even in those states where delegation is permitted, parameters for delegation do not permit delegation of the functions of assessment, evaluation and nursing judgment. Judgment and assessment skills are used to determine, for example, whether to administer or withhold a medication, or to consult a student’s primary care provider.

Further, it states Pennsylvania Code §109.62. Administration of drugs. (a) The individual preparing a dose of medication for administration shall also administer it, except as provided by subsections (b)... which refers to a pharmacist preparing IVs ... for administration by an appropriately licensed individual. In 1994, the Departments of Health (DOH) and Education (PDE) had published a medication guideline which included self-administration. The Board of Nursing, at the time, was working on promulgating regulations which included delegation. However, the Independent Regulatory Review Commission (IRRC) rejected the regulations because “unlike other health professional licensing statutes, the Professional Nursing Law does not contain a statutory provision authorizing registered nurses to delegate duties to unlicensed assistive persons.” Following this decision by IRRC, the Board of Nursing required that DOH and PDE pull from publication the medication guidelines. The Board also stated that allowing students to self-administer was the same as delegating to the student and was not allowed. When the 2010 medication guideline was released, the DOH and PDE letter referenced above stated “These guidelines replace any and all previous documents regarding administration of medications in Pennsylvania schools.”

The Division of School Health met with the Board of Nursing and they made the determination that due to the Good Samaritan Act (there is a specific section for school staff § 8337.1. Civil immunity of school officers or employees relating to emergency care, first aid and rescue), nurses could train unlicensed school staff to administer emergency medications. They left it up to the Department of Health to determine which medications. The Division of School Health met with the Bureau of Emergency Medical Services and it was decided that only epinephrine auto-injectors and rescue asthma inhalers would be allowed. At that time. This was based on: 1) Pennsylvania Public School Code allows students to carry and self-administer these two medications and 2) EMTs are only allowed to administer these two medications. In 2016 Act 86 was passed to allow unlicensed school personnel to assist with Diabetes management if the school complies with the law in its entirety. The law also allows for students to self-manage their care if the school and the student comply with the law. Act 86 information and training may be accessed at the following link: <https://www.health.pa.gov/topics/school/Pages/Diabetes.aspx>

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