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

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

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

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

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

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

§ 6307. Administration of emergency medication

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

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

3. Notification to parent or guardian that child may qualify for services. Pursuant to Section 504 of the federal Rehabilitation Act of 1973 and the federal Individuals with Disabilities Education Act, 20 United States Code, Section 1400 et seq., upon receipt of a parent's or guardian's request pursuant to subsection 2, the school administrative unit shall notify the parent or guardian that

the parent's or guardian's child may qualify for services or accommodations under a Section 504 plan or an individualized education program, assist the parent or guardian with the exploration of that option and encourage the parent or guardian to adopt that option if it is determined that the child is eligible for a Section 504 plan or an individualized education program.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(1) The student's name;

(2) The name and purpose of the medication;

(3) The prescribed dosage;

(4) Detailed medical emergency symptoms that identify when the administration of an emergency medication is necessary;

(5) The method of administration;

(6) The frequency with which the medication may be administered;

(7) The circumstances under which the medication may be administered;

(8) Any potential adverse reactions by the student and recommended mitigation actions, including when to call emergency services;

(9) A protocol for observing the student after a medical emergency, including, but not limited to, whether the student should rest in the school's main office, whether the student may return to class and the length of time the student should be under direct observation; and

(10) The requirement that, following a medical emergency, the student's parent or guardian and the school nurse be contacted by the school principal or, if the principal is not available, by another school employee to continue the observation protocol as established in subparagraph (9).

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

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

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

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

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

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

(2) Administration of emergency medication;

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

(4) Techniques and procedures to ensure student privacy.

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

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

(1) A physician;

(2) A physician assistant;

(3) A school nurse;

(4) A registered nurse; or

(5) A public health nurse.

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

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

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

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

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

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

Sec. 2. Initial guidelines for training and supervision of employees. The Department of Education shall post the initial guidelines for the training and supervision of school administrative unit employees developed pursuant to the Maine Revised Statutes, Title 20-A, section 6307, subsection 12, paragraph A on the department's publicly accessible website no later than October 1, 2016.

Emergency clause. In view of the emergency cited in the preamble, this legislation takes effect when approved.

SUMMARY

This bill authorizes a school administrative unit to participate in a program to allow nonmedical employees to volunteer to be trained to provide emergency medication to students upon request by a parent or guardian.