

TITLE 92 - NEBRASKA DEPARTMENT OF EDUCATION

CHAPTER 59 - REGULATIONS FOR SCHOOL HEALTH AND SAFETY

001 General Provisions.

001.01 Statutory Authority. This Chapter is adopted pursuant to Neb. Rev. Stat. §§ 25-21,280, 79-305, 79-318, and 79-1102 to 79-1104, the Medication Aide Act in Neb. Rev. Stat. §§ 71-6718 through 71-6742, and the Seizure Safe Schools Act in Neb. Rev. Stat. §§ 79-3201 to 79-3207.

001.02 Medication Aide Act Requirements. Sections 003, 004 and 005 of this Chapter set forth the methods for competency assessment for school staff who provide medications and/or participate in observing and reporting for monitoring medications. In order for school staff members to provide medication as mentioned above, the staff members must be able to successfully pass a competency assessment no less than every three (3) years as provided in such sections.

001.02A Nothing in this Chapter may be construed to require any school to employ or use a school nurse or medication aide to be in compliance with the Medication Aide Act.

001.03 Emergency Response to Life Threatening Asthma or Systemic Allergic Reactions (Anaphylaxis). Section 006 of this Chapter sets forth the requirements for Emergency Response to Life Threatening Asthma or Systemic Allergic Reactions (Anaphylaxis) Protocols.

001.04 Seizure Safe Schools Act Requirements. Sections 007, 008, and 009 of this Chapter sets forth the requirements for training related to seizure medications, procedures for developing seizure action plans, and the content for seizure action plans. Each school must have at least one school employee who has met the training requirements to administer seizure rescue medication or medication prescribed to treat seizure disorder symptoms according to seizure action plans authorized by parents and guardians of students who have seizure disorders and who have been prescribed such medications.

001.05 Related Regulations. In addition to this Chapter, accredited schools must comply with 92 NAC 10; approved schools must comply with 92 NAC 14; and, approved early childhood education programs must comply with 92 NAC 11. The requirements of Sections 003, 004, and 005 of this Chapter are directly related to the provisions set forth in Title 172, Nebraska Administrative Code, Chapter 95 which is promulgated by the Department of Health and Human Services Regulation and Licensure and is entitled, Administration of Medications by Medication Aides and Medication Staff.

002 Definitions.

002.01 Accredited school means a public school district or a nonpublic school or group of nonpublic schools under a governing body organized to provide education in elementary, middle, secondary, and/or high school grades accredited pursuant to Title 92, NAC, Chapter 10.

002.02 Administration of medication has the same meaning as in Neb. Rev. Stat. § 71-6721.

002.03 Approved early childhood education program means any prekindergarten part-day or full-day program established by a school board or an educational service unit and approved pursuant to Title 92, NAC, Chapter 11.

002.04 Approved school means a nonpublic school or group of schools under a governing body organized to provide education in elementary and/or secondary grades approved pursuant to Title 92, NAC, Chapter 14.

002.05 Caretaker has the same meaning as in Neb. Rev. Stat. § 71-6721.

002.06 Direction and monitoring has the same meaning as in Neb. Rev. Stat. § 71-6721.

002.07 Five rights has the same meaning as in Neb. Rev. Stat. § 71-6721.

002.08 Health care professional has the same meaning as in Neb. Rev. Stat. § 71-6721.

002.09 Informed decision has the same meaning as in Neb. Rev. Stat. § 71-6721.

002.10 Medication has the same meaning as in Neb. Rev. Stat. § 71-6721.

002.11 Medication Aide has the same meaning as in Neb. Rev. Stat. § 71-6721.

002.12 Prescribing health care practitioner means a practitioner as defined in Neb. Rev. Stat. § 71-2473 who signs a protocol and corresponding order pursuant to subsection 006.02 of this Chapter.

002.13 PRN has the same meaning as in Neb. Rev. Stat. § 71-6721.

002.14 Provision of medication has the same meaning as in Neb. Rev. Stat. § 71-6721.

002.15 Recipient with capability and capacity to make an informed decision about medications means an individual who is an adult (at least 19 years of age) and has knowledge related to the medication(s) such as purposes and desired effects, potential side effects, and the consequences if the medication is not provided and received as prescribed or recommended.

002.16 Routine, with reference to medication, has the same meaning as in Neb. Rev. Stat. § 71-6721.

002.17 School means an entity or person meeting the requirements for a school set by Chapter 79, including an accredited school pursuant to 92 NAC 10 or an approved school pursuant to 92 NAC 14.

002.18 School is in session means any period of time during which students are under the direction of school staff during the regular school day as defined by the school or school district and does not include any period of time during which an extracurricular activity is occurring outside of the regular school day.

002.19 School staff means individuals who are employed by a school, some of whom may be required to undergo a competency assessment pursuant to this Chapter. School staff includes substitute teachers and all other temporary employees. Health care professionals who are employed by a school are exempt from the competency assessments otherwise required under this Chapter.

002.20 Seizure action plan has the same meaning as in Neb. Rev. Stat. § 79-3202.

003 Medication Aide Act - Provision of Medication.

003.01 A staff member of a school may participate in medication administration, when directed and monitored by a recipient with capability and capacity to make an informed decision about medications, caretaker, or health care professional, by providing medications in compliance with the Medication Aide Act and rules and regulations adopted and promulgated under the Act, including this Chapter and Title 172, Nebraska Administrative Code, Chapter 95. In each case, the individual responsible for providing direction and monitoring must be identified in writing and indication that such individual has accepted such responsibility must also be identified in writing.

003.02 A staff member of a school may provide routine medications by the following routes:

003.02A Oral, which includes any medication given by mouth, including sublingual (placing under the tongue) and buccal (placing between the cheek and gum) routes and oral sprays;

003.02B Inhalation, which includes inhalers and nebulizers. Oxygen may be given by inhalation;

003.02C Topical application of sprays, creams, ointments, and lotions and transdermal patches; and

003.02D Instillation by drops, ointments, and sprays into the eyes, ears, and nose.

003.03 A staff member of a school determined to be competent by a recipient with capability and capacity to make an informed decision about medications, a caretaker, or a health care professional may provide medications through additional activities listed in subsections 003.03A through 003.03C, if it has been determined by a health care professional and placed in writing that these activities can be done safely for a specified recipient.

003.03A Provision of PRN medications;

003.03B Provision of medications by routes in addition to those identified in subsections 003.02A through 003.02D, including, but not limited to, gastrostomy tube, rectal, and vaginal, but not including the provision of medications or fluids intravenously; and

003.03C Participation in observing and reporting for monitoring medications.

003.04 Direction for staff members of a school to provide medication by routes not listed in subsection 003.02 of this Chapter must be for recipient specific procedures and must be in writing. Direction for PRN medication must be in writing and include the parameters for provision of the PRN medication. Direction for observing and reporting for monitoring medication must be in writing and include the parameters for the observation and reporting. Staff members of a school must comply with written directions.

004 Medication Aide Act - Competency Assessment.

004.01 Competencies. In order for a school to assess the competency of staff members to provide medication, the staff members of the school must be able to successfully pass a competency assessment no less than every three (3) years. Such competency assessments will consist of a demonstration by the school staff member of each of the minimum competency standards set forth in Title 172, Nebraska Administrative Code, Chapter 95, Section 004, to the satisfaction of the health care professional designated by the school to conduct the assessment.

004.02 School staff members will not be required to take a course, or be listed on the Medication Aide Registry in order to meet the requirements of this Chapter.

005 Medication Aide Act - Documentation.

005.01 Health care professionals designated by the school to conduct competency assessments, as described in Section 004 of this Chapter, must provide the school staff member and the school with written documentation of successful completion of competency assessment. Documentation may be by letter, certificate, or other official record designated by the school and must include:

005.01A The name of the school staff member who successfully completed the competency assessment;

005.01B The date the competency assessment was conducted; and

005.01C The name, profession, and license number of the health care professional who conducted the competency assessment.

005.02 Schools must maintain written documentation of successful completion of competency assessments, identification of the individual providing direction and monitoring, and acceptance of the responsibility for direction and monitoring for a minimum of two (2) years.

005.03 Schools must keep and maintain accurate records of administration of medication by school staff. The record of administration of medication must include but not be limited to:

005.03A Identification of the recipient;

005.03B Name of the medication given;

005.03C The date, time, dosage and route for each medication provided;

005.03D Identification of the person who provided the medication; and

005.03E Any refusal by the recipient to take or receive a medication.

005.04 Records maintained pursuant to subsections 005.01, 005.02, and 005.03 of this Chapter must be available to the Department of Education and the Department of Health and Human Services Regulation and Licensure for inspection and copying according to the Family Education Rights and Privacy Act (FERPA) requirements.

006 Emergency Response to Life Threatening Asthma or Systemic Allergic Reactions (Anaphylaxis).

006.01 Emergency Protocol. All accredited schools, approved schools, and approved early childhood education programs must adopt and implement the Emergency Response to Life-Threatening Asthma or Systemic Allergic Reactions (Anaphylaxis) Protocol contained in Appendix A of this Chapter. In addition to adopting the protocol, accredited schools, approved schools, and approved early childhood education programs must procure and maintain the equipment and medication necessary to implement the protocol in each school building while school is in session in the case of any student and/or school staff emergency.

006.02 Prescribing Health Care Practitioner. Accredited schools, approved schools, and approved early childhood education programs must obtain a minimum of one signature of a prescribing health care practitioner on the bottom of the protocol and orders in Appendix A of this Chapter. The orders shall serve as a prescription for emergency use as described in Neb. Rev. Stat. § 71-2475.

006.03 Parental and/or Guardian Objections to Protocol. The requirements of this Chapter do not preclude accredited schools, approved schools, and approved early childhood education programs from complying with a request from a parent or guardian that a minor student not receive emergency treatment under the protocol. A school district's decision to withhold emergency treatment in such circumstances is not governed by this Chapter.

007 Seizure Safe Schools Act – General Requirements.

007.01 Prior to the administration of a seizure rescue medication or medication prescribed to treat seizure disorder symptoms by a school employee, a student's parent or guardian must:

007.01A Provide the school with a written authorization to administer the medication at school;

007.01B Provide a written statement from the student's health care practitioner containing the following information:

007.01B1 The student's name;

007.01B2 The name and purpose of the medication;

007.01B3 The prescribed dosage;

007.01B4 The route of administration;

007.01B5 The frequency that the medication may be administered; and

007.01B6 The circumstances under which the medication may be administered;

007.01C Provide the medication to the school in its unopened, sealed package with the intact label affixed by the dispensing pharmacy; and

007.01D Collaborate with school employees to create a seizure action plan pursuant to Section 008 of this Chapter.

007.02 The authorization, statement, and seizure action plan must be kept on file in the office of the school nurse or school administrator.

007.03 Any authorization provided by a parent or guardian under this section will be effective for the school year in which it is provided and must be renewed each following school year upon fulfilling the requirements of subsection 007.03 of this Chapter.

007.04 If specified in a student's seizure action plan, the student must be permitted to possess the supplies, equipment, and medication necessary to treat a seizure disorder in accordance with such seizure action plan.

007.05 A school or school employee who acts in compliance with the Seizure Safe Schools Act will not be liable for damages related to the care of a student's seizure disorder unless such damages resulted from an act of willful or wanton misconduct by the school or school employee.

007.06 A school employee will not be subject to any disciplinary proceeding related to an act taken in compliance with the Seizure Safe Schools Act unless such action constitutes willful or wanton misconduct.

008 Seizure Safe Schools Act – Seizure Action Plans.

008.01 Any certificated school employee employed by an accredited school or an approved school who is informed by a parent or guardian of a student that such student has a seizure disorder and has a seizure rescue medication or medication prescribed to treat seizure disorder symptoms must inform the parent or guardian of their right to request the development of a seizure action plan.

008.02 Upon request by a parent or guardian of a student that has a seizure disorder and has a seizure rescue medication or medication prescribed to treat seizure disorder symptoms, an accredited school or an approved school must arrange a collaborative meeting within five school days between the parent or guardian, the school nurse if the school employs a school nurse, a school administrator, and any school personnel or volunteers responsible for the supervision or

care of the student who are able to attend. The parent or guardian may request the inclusion in such meeting of any other person, including the student, who has knowledge that may be beneficial in the development of the seizure action plan.

008.03 Each seizure action plan must include:

008.03A The student's name and birth date;

008.03B The name and phone number of each parent or guardian and any additional emergency contacts;

008.03C The name and phone number for the medical provider prescribing seizure rescue medication or medication to treat seizure disorder symptoms;

008.03D Information about the seizure type, length, and frequency of seizures the student has experienced and a description of what happens;

008.03E Information about seizure triggers, important medical history, allergies, and any other relevant health information;

008.03F Instructions for first aid for any seizure;

008.03G Instructions for when to call 911 and when to call the identified medical provider;

008.03H Instructions for when seizure rescue medication or medication to treat seizure disorder symptoms may be needed and how to administer the medication;

008.03I Instructions for care after a seizure;

008.03J Any special instructions for first responders or emergency departments; and

008.03K The signature of a parent or guardian and the date when the seizure action plan was signed.

008.04 Each seizure action plan must be distributed to any school personnel or volunteers responsible for the supervision or care of the student for whom such seizure action plan was created.

009 Seizure Safe Schools Act – Training Requirements.

009.01 In addition to any other professional development and collegial planning activities for certificated school employees, each certificated school employee employed by an accredited school or an approved school must participate in a minimum of one hour of self-study review of seizure disorder materials at least once in every two school years.

009.02 If an accredited school or approved school has a student enrolled who has a seizure disorder and has a seizure rescue medication or medication prescribed to treat seizure disorder symptoms, the school must have at least one school employee who has met the training requirements necessary to administer or assist with the self-administration of a seizure rescue medication or medication prescribed to treat seizure disorder symptoms.

009.03 Any school employee assigned the duties under subsection 007.02 of this Chapter must complete a training program that:

009.03A Includes instruction in administering seizure medications, recognizing the signs and symptoms of seizures, and responding to such signs and symptoms with the appropriate

steps; and

009.03B Is consistent with training programs and guidelines developed by a nationally recognized organization focused on epilepsy.

010 Enforcement.

010.01 A school will be subject to discipline under Title 92, Nebraska Administrative Code, Chapter 10 or Chapter 14 for violation of the Medication Aide Act or Sections 002 through 005 in this Chapter, or provisions in Title 172, Nebraska Administrative Code, Chapter 95.

Appendix A

EMERGENCY RESPONSE TO LIFE-THREATENING ASTHMA OR SYSTEMIC ALLERGIC REACTIONS (ANAPHYLAXIS)

DEFINITION: Life-threatening asthma consists of an acute episode of worsening airflow obstruction. Immediate action and monitoring are necessary.

A systemic allergic reaction (anaphylaxis) is a severe response resulting in cardiovascular collapse (shock) after the injection of an antigen (e.g. bee or other insect sting), ingestion of a food or medication, or exposure to other allergens, such as animal fur, chemical irritants, pollens or molds, among others. The blood pressure falls, the pulse becomes weak, AND DEATH CAN OCCUR. Immediate allergic reactions may require emergency treatment and medications.

LIFE-THREATENING ASTHMA SYMPTOMS: Any of these symptoms may occur:

- Chest tightness
- Wheezing
- Severe shortness of breath
- Retractions (chest or neck “sucked in”)
- Cyanosis (lips and nail beds exhibit a grayish or bluish color)
- Change in mental status, such as agitation, anxiety, or lethargy
- A hunched-over position
- Breathlessness causing speech in one-to-two word phrases or complete inability to speak

ANAPHYLACTIC SYMPTOMS OF BODY SYSTEM: Any of the symptoms may occur within seconds. The more immediate the reaction, the more severe the reaction may become. Any of the symptoms present require several hours of monitoring.

- Skin: warmth, itching, and/or tingling of underarms/groin, flushing, hives
- Abdominal: pain, nausea and vomiting, diarrhea
- Oral/Respiratory: sneezing, swelling of face (lips, mouth, tongue, throat), lump or tightness in the throat, hoarseness, difficulty inhaling, shortness of breath, decrease in peak flow meter reading, wheezing reaction

- Cardiovascular: headache, low blood pressure (shock), lightheadedness, fainting, loss of consciousness, rapid heart rate, ventricular fibrillation (no pulse)
- Mental status: apprehension, anxiety, restlessness, irritability

EMERGENCY PROTOCOL:

1. CALL 911.
2. Summon school nurse if available. If not, summon designated trained, non-medical staff to implement an emergency protocol.
3. Check airway patency, breathing, respiratory rate, and pulse.
4. Administer medications (epinephrine in any form approved by the U.S. Food and Drug Administration (FDA) and nebulized albuterol) per standing order.
5. Determine cause as quickly as possible.
6. Monitor vital signs (pulse, respiration, etc.).
7. Contact parents immediately and prescribing health care practitioner as soon as possible.
8. Any individual treated for symptoms with epinephrine at a school will be transferred to a medical facility.

STANDING ORDERS FOR RESPONSE TO LIFE-THREATENING ASTHMA OR ANAPHYLAXIS:

- Administer epinephrine in any form approved by the FDA junior for any child less than 60 pounds or adult epinephrine in any form approved by the FDA for any individual over 60 pounds.
- Follow with nebulized albuterol while awaiting EMS.
- If symptoms persist, repeat epinephrine in any form approved by the FDA followed by nebulized albuterol every fifteen minutes while awaiting EMS arrival.
- Administer CPR, if indicated.

Prescribing Health Care Practitioner Date

When signed by a licensed prescribing health care practitioner, these orders shall serve as a prescription as defined in Neb. Rev. Stat. § 71-2475 for emergency use for epinephrine in any form approved by the FDA and nebulized albuterol to be used accordingly.