

APPENDIX B: Relevant Articles of the *California Code of Regulations*

**Title 5. EDUCATION
Division 1. California Department of Education
Chapter 2. Pupils
Subchapter 3. Health and Safety of Pupils**

Add Article 4.1. to read:

Article 4.1. Administering Medication to Pupils or Otherwise Assisting Pupils in the Administration of Medication During the Regular School Day.

§ 600. Authorization.

Pursuant to Section 49423 and subdivision (b) of Section 49423.6 of the Education Code, any pupil who is required to take, during the regular school day, prescribed medication may be assisted by a school nurse or other designated school personnel if both of the following conditions are met:

(a) The pupil's authorized health care provider executes a written statement specifying, at a minimum, the medication the pupil is to take, the dosage, and the period of time during which the medication is to be taken, as well as otherwise detailing (as may be necessary) the method, amount, and time schedule by which the medication is to be taken.

(b) The pupil's parent or legal guardian provides a written statement initiating a request to have the medication administered to the pupil or to have the pupil otherwise assisted in the administration of the medication, in accordance with the authorized health care provider's written statement.

NOTE: Authority cited: Sections 33031 and 49423.6, Education Code. Reference: Sections 49423 and 49423.6, Education Code.

§ 601. Definitions.

As used in Section 49423 and subdivision (b) of Section 49423.6 of the Education Code and in this article:

(a) "Authorized health care provider" means an individual who is licensed by the State of California to prescribe medication.

(b) "Medication" may include not only a substance dispensed in the United States by prescription, but also a substance that does not require a prescription, such as over-the-counter remedies, nutritional supplements, and herbal remedies.

(c) "Medication log" may consist of a form developed by the local education agency for the documentation of the administration of the medication to the pupil or otherwise assisting the pupil in the administration of the medication. The medication log may include the following:

- (1) Pupil's name;
- (2) Name of medication the pupil is required to take;

- (3) Dose of medication;
- (4) Method by which the pupil is required to take the medication;
- (5) Time the medication is to be taken during the regular school day;
- (6) Date(s) on which the pupil is required to take the medication;
- (7) Authorized health care provider's name and contact information; and
- (8) A space for daily recording of medication administration to the pupil or otherwise assisting the pupil in administration of the medication, such as date, time, amount, and signature of the individual administering the medication or otherwise assisting in administration of the medication.

(d) "Medication record" may include:

- (1) The authorized health care provider's written statement;
- (2) The written statement of the parent or legal guardian;
- (3) The medication log; and
- (4) Any other written documentation related to the administration of the medication to the pupil or otherwise assisting the pupil in the administration of the medication.

(e) "Other designated school personnel" may include any individual employed by the local education agency who:

- (1) Has consented to administer the medication to the pupil or otherwise assist the pupil in the administration of medication; and
- (2) May legally administer the medication to the pupil or otherwise assist the pupil in the administration of the medication.

(f) "Parent or legal guardian" means the individual recognized by the local education agency as having authority to make medical decisions for the pupil.

(g) "Regular school day" may include not only the time the pupil receives instruction, but also the time during which the pupil otherwise participates in activities under the auspices of the local education agency, such as field trips, extracurricular and cocurricular activities, before- or after-school programs, and camps or other activities that typically involve at least one overnight stay away from home.

(h) "School nurse" means an individual employed by the local education agency who is a currently licensed registered nurse and is credentialed pursuant to Education Code section 44877.

NOTE: Authority cited: Sections 33031 and 49423.6, Education Code. Reference: Sections 44877, 49423, and 49423.6 Education Code.

§ 602. Written Statement of Authorized Health Care Provider.

(a) A local education agency may establish specifications for the authorized health care provider's written statement in order to ensure that:

- (1) The pupil is clearly identified;
 - (2) The medication is clearly identified;
 - (3) The dosage is clearly specified;
 - (4) The period of time during which the medication is to be taken is clearly specified;
- and
- (5) Other information is obtained that is relevant to administering the medication to the pupil or otherwise assisting the pupil in administration of the medication.

(b) A pupil's parent or legal guardian may deliver the authorized health care provider's written statement to an authorized representative of the local education agency, such as the schoolsite administrator or his or her designee.

(c) A local education agency may require that an amended or new written statement be provided annually and whenever there is a change in the pupil's authorized health care provider, or a change in the medication, dosage, method by which the medication is required to be taken, or date(s) or time(s) the medication is required to be taken.

NOTE: Authority cited: Sections 33031 and 49423.6, Education Code. Reference: Sections 49423 and 49423.6, Education Code.

§ 603. Written Statement of the Parent or Legal Guardian.

(a) A local education agency may establish specifications for the written statement of the pupil's parent or legal guardian in order to ensure that:

(1) The pupil is clearly identified.

(2) Permission is obtained for an authorized representative of the local education agency to communicate directly with the pupil's authorized health care provider, as may be necessary, regarding the authorized health care provider's written statement.

(3) The parent or legal guardian understands what employees of the local education agency will do to administer the medication to the pupil or otherwise assist the pupil in the administration of the medication.

(4) The parent or legal guardian understands his or her responsibilities to enable employees of the local education agency to administer the medication to the pupil or otherwise assist the pupil in administration of the medication, e.g., to ensure that a current authorized health care provider's written statement has been delivered to an authorized representative of the local education agency, or to ensure that the medication is delivered to the schoolsite in a proper container by an individual legally authorized to be in possession of the medication.

(5) The parent or legal guardian understands how he or she may terminate consent for administration of the medication to the pupil or otherwise assisting the pupil in the administration of the medication.

(b) A local education agency may provide reasonable accommodations to a parent or legal guardian who has insufficient English language proficiency to produce a written statement without assistance or who has a disability that makes it difficult to produce a written statement.

NOTE: Authority cited: Sections 33031 and 49423.6, Education Code. Reference: Sections 49423 and 49423.6, Education Code.

§ 604. Administration of Medication to Pupils or Otherwise Assisting Pupils in the Administration of Medication.

(a) A school nurse may administer medication to a pupil or otherwise assist a pupil in the administration of medication as allowed by law and in keeping with applicable standards of professional practice.

(b) Other designated school personnel may administer medication to pupils or otherwise assist pupils in the administration of medication as allowed by law and, if they are licensed health care professionals, in keeping with applicable standards of professional practice for their license.

(c) The pupil's parent or legal guardian may administer medication to the pupil or otherwise assist the pupil in the administration of medication as allowed by law.

(d) An individual designated to do so by the parent or legal guardian may administer medication to the pupil or otherwise assist the pupil in the administration of medication as allowed by law. A local education agency may establish rules governing the designation of an individual by a parent or legal guardian in order to ensure that:

- (1) The individual is clearly identified;
- (2) The individual is willing to accept the designation;
- (3) The individual being designated is permitted to be present on the school site;
- (4) Any limitations on the individual's authority in his or her capacity as designee are clearly established; and

(5) The individual's service as a designee would not be inconsistent or in conflict with his or her employment responsibilities, if the individual being designated is employed by the local education agency.

NOTE: Authority cited: Sections 33031 and 49423.6, Education Code. Reference: Sections 49423 and 49423.6, Education Code.

§605. Self-Administration of Medication.

With the approval of the pupil's authorized health care provider and the approval of the pupil's parent or legal guardian, a local education agency may allow a pupil to carry medication and to self-administer the medication. A local education agency may establish rules governing self-administration in order to protect the health and safety both of the pupil and of the whole student body and staff at the schoolsite. Through such rules, a local education agency may describe circumstances under which self-administration may be prohibited.

NOTE: Authority cited: Sections 33031 and 49423.6, Education Code. Reference: Sections 49423 and 49423.6, Education Code.

§ 606. Delivery and Storage of Medication.

A local education agency may establish policies governing the delivery of medication to the schoolsite (other than medication a pupil is allowed to carry for purposes of self-administration), as well as the storage of medication in a manner that is secure and maintains the medication's effectiveness.

NOTE: Authority cited: Sections 33031 and 49423.6, Education Code. Reference: Sections 49423 and 49423.6, Education Code.

§ 607. Documentation.

A local education agency may establish policies regarding documentation of the administration of medication to pupils or otherwise assisting pupils in the administration of medication to ensure that:

- (a) Pupil confidentiality is appropriately maintained;
- (b) A medication record is maintained for each pupil to whom medication is administered or other assistance is provided in the administration of medication; and
- (c) An appropriate record is kept of pupils who are allowed to carry and self-administer medication.

NOTE: Authority cited: Sections 33031 and 49423.6, Education Code. Reference: Sections 49423 and 49423.6, Education Code.

§ 608. Deviation from Authorized Health Care Provider's Written Statement.

A local education agency may establish policies regarding any material or significant deviation from the authorized health care provider's written statement in order to ensure that, as quickly as possible upon discovery, appropriate notification of the deviation is made:

- (a) In accordance with applicable standards of professional practice, if the discovery is made by a licensed health care professional; or
- (b) To the schoolsite administrator, the pupil's parent or legal guardian, an employee of the local education agency who is a licensed health care professional (if any), and the pupil's authorized health care provider, if the discovery is made by an individual who is not a licensed health care professional.

NOTE: Authority cited: Sections 33031 and 49423.6, Education Code. Reference: Sections 49423 and 49423.6, Education Code.

§ 609. Unused, Discontinued and Outdated Medication.

A local education agency may establish policies regarding unused, discontinued, and outdated medication in order to ensure that:

- (a) Such medication is returned to the pupil's parent or legal guardian where possible;
- (b) Such medication that cannot be returned to the pupil's parent or legal guardian is disposed of by the end of the school year in accordance with applicable law.

NOTE: Authority cited: Sections 33031 and 49423.6, Education Code. Reference: Sections 49423 and 49423.6, Education Code.

§ 610. Applicability of this Article.

Nothing in this article may be interpreted as creating a state-mandated local program or as affecting in any way:

(a) The statutes, regulations, or standards of practice governing any health care professional licensed by the State of California in the carrying out of activities authorized by the license;

(b) The statutes or regulations governing the administration of medication to pupils or otherwise assisting pupils in the administration of medication by individuals who are not licensed health care professionals, other than Section 49423 and subdivision (b) of Section 49423.6 of the Education Code;

(c) The use of emergency epinephrine auto-injectors pursuant to Section 49414 of the Education Code;

(d) The content or implementation of a pupil's individualized education program prepared in accordance with applicable provisions of federal and state law, or a pupil's Section 504 Accommodation Plan prepared in accordance with applicable provisions of the federal Rehabilitation Act of 1973.

NOTE: Authority cited: Sections 33031 and 49423.6, Education Code. Reference: Sections 49414, 49423 and 49423.6, and Part 30 (commencing with Section 56000) of Division 4 of Title 2, Education Code.

§ 611. Issuance and Periodic Updating of Advisory.

The California Department of Education, with the approval of the State Board of Education, may issue and periodically update an advisory providing non-binding guidance on the administration of medication to pupils and otherwise assisting pupils in the administration of medication. The advisory shall be a program guideline under Education Code Section 33308.5, and shall meet the requirements of Education Code Section 33308.5 (including the written notification that the guideline is merely exemplary and that compliance with the guideline is not mandatory).

NOTE: Authority cited: Sections 33031 and 49423.6, Education Code. Reference: Sections 33308.5, 49423 and 49423.6, Education Code.

APPENDIX C: GLOSSARY

authorized health care provider. A person who is licensed by the State of California to prescribe medication (*California Code of Regulations (CCR), Title 5, Section 601[a]*).

capable. Having the ability to perform a task correctly and competently.

controlled substances. Controlled substances are drugs that are regulated by the U.S. Drug Enforcement Administration (DEA). These drugs generally have potential for abuse or illicit distribution. The DEA has divided controlled substances into five schedules according to their potential for abuse. Schedule I drugs have the greatest potential for abuse and Schedule V drugs have the least. **It is a criminal act to violate federal law related to controlled substances.** A Schedule II drug that is commonly administered in schools is Ritalin (methylphenidate). More information about the five schedules of controlled substances may be found on the DEA Web site at <http://www.usdoj.gov/dea/pubs/csa.html>

designated school personnel. Persons employed by the local education agency who satisfy the following requirements:

1. Has consented to administer the medication to a student or otherwise assist a student in the administration of medication (unlicensed personnel). (*CCR, Title 5, Section 601[e][1]*)
2. May legally administer the medication to a student or otherwise assist a student in the administration of the medication (licensed health care personnel) (*CCR, Title 5, Section 601[e][2]*).

duly qualified supervisor of health. A California credentialed school nurse or a California licensed physician and surgeon may serve as supervisors of health (*EC sections 44871 - 44878*).

emergency medication. Life sustaining medication that is provided to avert death. Staff administering life-sustaining medication should be prepared to provide additional life support, such as cardiopulmonary resuscitation (CPR), if needed.

medication. Includes substances dispensed in the United States by prescription and substances that do not require prescriptions, such as over-the-counter remedies, nutritional supplements, and herbal remedies (*CCR, Title 5, Section 601[b]*).

medication error. Any preventable event that may lead to or cause inappropriate medication use or patient harm while the medication is in the control of the health care professional, patient, or consumer. Such events may be related to professional practice, health care products, procedures, and systems, such as prescribing; order communication; product labeling, packaging, and nomenclature; compounding; dispensing; distribution; administration; education; monitoring; and use (National Coordinating Council for Medication Error Reporting and Prevention: <http://www.nccmerp.org/aboutMedErrors.html>).

medication log. A form used by the local educational agency (LEA) for the documentation of the administration of the medication to a student or otherwise assisting the student in the administration of the medication (*CCR, Title 5, Section 601 [d][3]*).

medication record. May include the following information:

1. The authorized health care provider's written authorization
2. The written statement of the parent or legal guardian
3. The medication log
4. Any other written documentation related to the administration of the medication to the student or otherwise assisting the student in the administration of the medication (*CCR, Title 5, Section 601[d][1-4]*)

med-pak. A prescribed medication package containing more than one medication.

parent or guardian. The person who has the legal responsibility to care for a specific student is recognized by the LEA as having authority to make medical decisions for the student.

Parent or guardian consent for medication administration. A written statement from the parent or guardian of the student permitting the LEA to assist the student according to the California licensed health care provider's statement and to communicate with the student's health care provider, as necessary, regarding the medication. The written statement also indicates the parent or guardian's understanding of his or her role and responsibilities for medication administered to his or her child at school (*CCR, Title 5, Section 603*).

PRN (*pro re nata*) medication. This medication is administered as needed to the patient. These authorized medications are administered when specific described signs and symptoms are present.

regular school day. A regular school day includes the time a student receives instruction and the time during which a student otherwise participates in activities under the auspices of the LEA, such as field trips, extracurricular and cocurricular activities, before or after-school programs, and camps or other activities that typically involve at least one overnight stay away from home (*CCR, Title 5, Section 601 [g]*).

school nurse. A person employed by the LEA who is a currently licensed registered nurse and is credentialed pursuant to *EC Section 44877*.

Sharps. Objects that can penetrate the skin including needles and lancets.

sharps container. A container approved by the California Occupational Safety and Health Association for the disposal of sharps.

Specialized physical health care services. These services are prescribed by a physician, may require medically related training to perform, and are necessary for the student to attend school (*EC Section 49423.5[d]*; *CCR, Title 5, Section 3051.12[b][1][A]*).

Standard. "That which is established by custom or authority as a model, criterion, or rule for comparison of measurement." (*Taber's Cyclopedic Medical Dictionary*, Edition 18, Edited by C.L. Thomas, Philadelphia: F.A. Davis Company, 1997)

standardized procedures. Protocols and procedures developed through collaboration among school or hospital administrators and health professionals, including licensed physicians, surgeons, and nurses to be utilized in the provision of the specialized physical health care services (*CCR, Title 5, Section 3051.12 [b][1][B]*).

Supervision. Review, observation, or instruction of a designated school person's performance and of physical health care services, but does not necessarily require the immediate presence of the supervisor at all times.

1. Immediate supervision means that the supervisor shall be physically present while a procedure is being administered (*CCR, Title 5, Section 3051.12[b][1][D][1]*).
2. Direct supervision means that the supervisor shall be present in the same building as the person being supervised and available for consultation or assistance (*CCR, Title 5, Section 3051.12[b][1][D][2]*).
3. Indirect supervision means that the supervisor shall be available to the qualified designated school employee either in person or through electronic means to provide necessary instruction, consultation, and referral to appropriate care and services as needed (*CCR, Title 5, Section 3051.12[b][1][D][3]*).
4. Supervision of designated school persons shall include review on-site by a qualified school nurse, qualified public health nurse, or qualified licensed physician and surgeon. Supervision shall also include review of the competence of that individual in performing the specialized health care service, maintenance of appropriate records, physical environment, and equipment (*CCR, Title 5, Section 3051.12[b][1][D][3]*).

Training. Preparation in the appropriate delivery and skillful performance of standard procedures for the administration of medication in school provided by a duly qualified supervisor of health or obtained in an approved program provided by an appropriate agency (*CCR, Title 5, Section 3051,12 [b][1][E]*).

universal precautions. Body fluid and blood exposure precautions and controls are used by persons providing health care or assisting with daily living skills as required by the California Occupational Safety and Health Association. These precautions include proper hand washing, the use of protective gloves when dealing with body fluids, and the proper disposal of wastes and approved environment disinfectants.

unlicensed designated school personnel. May include any person employed by the LEA who does not possess a current California license for health care.

APPENDIX D: REFERENCES:

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