

STATE BOARD OF EDUCATION – ADMINISTRATIVE RULE SUMMARY

Title/OAR #: **Adoptions**—Administration of Prescription and Nonprescription Medication to Students/ OAR 581-021-0037

Staff/Office: Sarah Drinkwater, Mitch Kruska, Ely Sanders, Office of Learning

New Rule **Amend Existing Rule** **Repeal Rule**

Hearing Date: _____ **Hearings Officer Report Attached**

Prompted by: **State law changes** **Federal law changes** **Other**

Action Requested:

First Reading/Second Reading Agenda **Adoption** **Adoption/Consent**

PROPOSED/AMENDED RULE SUMMARY: Amends existing rule on the administration of prescription and nonprescription medication to align with three bills passed during 2015 legislative session.

BACKGROUND:

SB 875, HB 3041, and HB 3149, all signed in to law during the 2015 legislative session, require modification to OAR 581-021-0037. SB 875 directs the State Board of Education to adopt rules under which school personnel may administer medications that treat adrenal insufficiency to students experiencing adrenal crises. HB 3041 directs school districts to allow the outdoor use, by students, of sun-protective clothing, including hats; the application of and use by students of nonprescription sunscreen without any documentation from a licensed health care professional. HB 3149 allows a registered nurse, employed by a public or private school, to accept an order from a physician licensed to practice medicine or osteopathy in another state or territory of the United States if the order is related to the care or treatment of a student who has been enrolled at the school for not more than 90 days.

ODE convened two stakeholder groups that included ODE’s School Nurse Advisory Group (SNAG) members as well as community stakeholders representing the Oregon Health Authority, Adrenal Insufficiency United, OSBA, and OSEA. All modifications and additions are supported and aligned with the legislation passed during the 2015 session.

The State Board of Education has discretion on a limited number of the proposed modifications and additions to OAR 581-021-0037. SB 875 requires the State Board of Education to adopt rules relating to adrenal insufficiency. HB 3041 and HB 3149 do not require the State Board to adopt rules.

ISSUES/CONCERNS THAT SURFACED DURING RULE WORK:

CHANGED SINCE LAST BOARD MEETING? (so members can focus on what’s different)

N/A; first read—hasn’t been before board

No; same as last month

Yes – As follows:

FISCAL IMPACT: No fiscal impact to the Department.

EFFECT OF YES VOTE: OAR 581-021-0037 will be modified to reflect and align with the new school district requirements of SB 875, HB 3041, and HB 3149.

EFFECT OF NO VOTE: New requirements for districts will not be reflected in OAR.

STAFF RECOMMENDATION:

- Adopt administrative rule as prepared this month
- Adopt administrative rule next month
- No recommendation at this time (rarely used)

Comments:

CREATED BY EN 11/19/15

581-021-0037

Administration of Prescription and Nonprescription Medication to Students

(1) As used in this rule, definitions of terms shall be as follows:

(a) "Age appropriate guidelines" means the student must be able to demonstrate the ability, developmentally and behaviorally, to self-medicate with permission from a parent or guardian, building administrator and in the case of a prescription medication a physician;

(b) "Adrenal crisis" means adrenal crisis as defined in ORS 433.800;

(c) "Adrenal insufficiency" means adrenal insufficiency as defined in ORS 433.800;

(d) "Asthma" means a chronic inflammatory disorder of the airways that requires ongoing medical intervention;

(ee) "Designated staff" means the school staff person who is designated by the building level school administrator, either the principal or head teacher, to administer nonprescription or prescription medication pursuant to district policy and procedure;

(fe) "Instruction from physician, physician assistant or nurse practitioner" means a written instruction for the administration of a prescription medication to a student which:

(A) Shall include:

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- (i) Name of student;
- (ii) Name of medication;
- (iii) Dosage;
- (iv) Method of administration;
- (v) Frequency of administration; and
- (vi) Other special instruction, if any.

(B) Shall include the prescription medication label prepared by a pharmacist at the direction of a physician, physician assistant or nurse practitioner will meet the requirements for a written instruction if it contains the information listed in (i) through (vi) of this paragraph;

(ge) "Instruction from the student's parent or guardian" means a written instruction for the administration of a nonprescription medication to a student which shall include:

- (A) Name of student;
- (B) Name of medication;
- (C) Dosage;
- (D) Method of administration;
- (E) Frequency of administration;
- (F) Other special instructions; and
- (G) Signature of parent or guardian.

(hf) "Nonprescription medication" means only ~~commercially prepared~~ FDA approved, non-alcohol-based medication to be taken at school that is necessary for the child to remain in school. This shall be limited to eyes, nose and cough drops, cough suppressants, analgesics, decongestants, antihistamines, topical antibiotics, anti-inflammatories and antacids that do not require written or oral instructions from a physician. For purposes of this rule, nNonprescription medication does not include dietary food supplements or sunscreen;

(i) "Notice of a diagnoses of adrenal insufficiency" means written notice to the school district from the parent or guardian of a student who has been diagnosed as adrenal insufficient with a copy of an order from the student's physician that includes the student's diagnosis, description of symptoms indicating the student is in crisis, prescription for medication to treat adrenal

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insufficiency crisis, and instructions for follow-up care after medication to treat adrenal insufficiency crisis has been administered.

(~~lg~~) "Physician" means:

(A) A doctor of medicine or osteopathy or a physician assistant licensed to practice by the Board of Medical Examiners for the State of Oregon except as allowed under subsection (5) of this rule;

(B) A nurse practitioner with prescriptive authority licensed by the Oregon State Board of Nursing;

(C) A dentist licensed by the Board of Dentistry for the State of Oregon;

(D) An optometrist licensed by the Board of Optometry for the State of Oregon; or

(E) A naturopathic physician licensed by the Board of Naturopathy for the State of Oregon;

(~~kh~~) "Prescription medication" means:

(A) ~~Any~~ any non-injectable drug, chemical compound, suspension or preparation in suitable form for use as a curative or remedial substance taken either internally or externally by a student under the written direction of a physician; and

~~(B). For the purpose of this rule, prescription medication includes any prescription for bronchodilators~~ Bronchodilators or auto-injectable epinephrine prescribed by a student's Oregon licensed health care professional for asthma or severe allergies.

~~(C) Prescription medication does not include dietary food supplements.~~

(~~li~~) "Qualified trainer" means a person who is familiar with the delivery of health services in a school setting and who is:

(A) A Registered Nurse licensed by the Oregon State Board of Nursing;

(B) A physician; or

(C) A pharmacist licensed by the State Board of Pharmacy for the State of Oregon.

(~~mj~~) "Severe allergy" means a life-threatening hypersensitivity to a specific substance such as food, pollen or dust;

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(nk) "Student self-medication" means students must be able to administer medication to him or herself without requiring a trained school staff member to assist in the administration of the medication;

(ol) "Training" means yearly instruction provided by qualified trainers to designated school staff on the administration of prescription and nonprescription medications, based on requirements set out in guidelines approved by the Department of Education, including discussion of applicable district policies, procedures and materials;

(2) Each school district shall adopt policies and procedures that provide for:

(a) The administration of prescription and nonprescription medication to students by trained school personnel; and

(b) Student self-medication including age appropriate guidelines.

(3) Policies and procedures shall:

(a) Include a process to designate, train and supervise appropriate staff that takes into account when a student is in school, at a school sponsored activity, under the supervision of school personnel, in before-school or after-school care programs on school-owned property, and in transit to or from school or school-sponsored activities;

(b) Permit designated staff to administer prescription medication under the written permission from the student's parent or guardian and instruction from a physician, physician assistant or nurse practitioner if, because of its prescribed frequency, the medication must be given while in school, at a school sponsored activity, while under the supervision of school personnel, in before-school or after-school care programs on school-owned property, and in transit to or from school or school-sponsored activities;

(c) Permit designated staff to administer nonprescription medication under the written permission and instruction from the student's parent or guardian; and

(d) Permit student self-medication;

(e) Include procedures for the administration of premeasured doses of epinephrine by school personnel trained as provided by ORS 433.815 to any student or other individual on school premises who the personnel believe in good faith is experiencing a severe allergic reaction, regardless of whether the student or individual has a prescription for epinephrine;

(f) Include procedures for the administration of medication by school personnel to treat a student who the personnel believe in good faith is experiencing symptoms of adrenal crisis. The procedures must provide that:

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(A) Only upon notice of a diagnoses of adrenal insufficiency as defined in this rule, the building administrator of the school the student attends will designate school personnel to be responsible for administering medication to treat adrenal insufficiency in the event the student exhibits symptoms that school personnel believe in good faith indicate the student is experiencing symptoms of adrenal crisis;

(B) The designated school personnel will successfully complete training to administer medication to treat a student who has adrenal insufficiency and ~~is~~ experiencing symptoms of adrenal crisis in accordance with rules adopted by the Oregon Health Authority;

(C) The parent or guardian of the student must provide adequate supply of the student's prescribed medication to the school district; and

(C) In the event that a student experiences symptoms of adrenal crisis and the designated personnel determines the medication to treat adrenal insufficiency should be administered, any available school personnel will immediately call 911 and the student's parent or guardian.

(g) Provide guidelines for the management of students with life-threatening food allergies and adrenal insufficiency while the student is in school, at a school sponsored activity, while under the supervision of school personnel, in before-school or after-school care programs on school-owned property, and in transit to or from school or school-sponsored activities. The guidelines must include:

(A) Standards for the education and training of school personnel to manage students with life threatening allergies or adrenal insufficiency;

(B) Procedures for responding to life-threatening allergic reactions or adrenal crisis;

(C) A process for the development of an individualized health care and allergy plans for every student with a known life-threatening allergy and an individualized health care plan for every student for whom the school district has been given proper notice of a diagnoses of adrenal insufficiency as defined in this rule;

(D) Protocols for preventing exposures to allergens;

(E) A process for determining when a student may self-carry prescription medication;

(F) Policies and procedures that provide for self-administration of medication by kindergarten through grade 12 students with asthma or severe allergies. The policies and procedures must:

(i) Require that ~~an Oregon licensed health care professional~~ a physician prescribe the medication to be used by the student while in school, at a school sponsored activity, while under the supervision of school personnel, in before-school or after-school care programs on school-owned property, and in transit to or from school or school-sponsored activities, and instruct the student in the correct and responsible use of the medication;

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(ii) Require that a physician or other ~~an~~ Oregon licensed health care professional, acting within the scope of the person's license; formulate a written treatment plan for managing the student's asthma or severe allergy;

(4) Policies and procedures related to administration of prescription and nonprescription medication and student self-medication must discuss:

(a) Safe storage, handling, monitoring supply and disposing of medications;

(b) Record keeping and reporting of medication administration, including errors in administration;

(c) Emergency medical response for life threatening side effects and allergic reactions, including the administration of premeasured doses of epinephrine to students and other individuals; and

(d) Student confidentiality.

(5) A registered nurse who is employed by a public or private school may accept an order from a physician licensed to practice medicine or osteopathy in another state or territory of the United States if the order is related to the care or treatment of a student who has been enrolled at the school for not more than 90 days.

Stat. Auth.: ORS 326.051

Stats. Implemented: ORS 339.870; 2015 OL Ch. 112, Section 2 (Enrolled HB 3149); 2015 OL 162, Section 1 (Enrolled HB 3041)

Hist.: ODE 3-1998(Temp), f. & cert. ef. 2-27-98 thru 8-25-98; ODE 6-1998, f. & cert. ef. 4-23-98; ODE 10-1999, f. & cert. ef. 2-12-99; ODE 8-2005, f. & cert. ef. 3-23-05; ODE 17-2009, f. & cert. ef. 12-10-09; ODE 4-2010, f. & cert. ef. 3-18-10; ODE 21-2014, f. & cert. ef. 6-3-14