



# 127th MAINE LEGISLATURE

## SECOND REGULAR SESSION-2016

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Legislative Document

No. 1491

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H.P. 1014

House of Representatives, December 23, 2015

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

(EMERGENCY)

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Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 203.

Received by the Clerk of the House on December 21, 2015. Referred to the Committee on Education and Cultural Affairs pursuant to Joint Rule 308.2 and ordered printed pursuant to Joint Rule 401.

A handwritten signature in cursive script that reads "R B. Hunt".

ROBERT B. HUNT  
Clerk

Presented by Representative CHENETTE of Saco.  
Cosponsored by Senator DUTREMBLE of York and  
Representatives: BATTLE of South Portland, ESPLING of New Gloucester, GATTINE of  
Westbrook, GIDEON of Freeport, NADEAU of Winslow, Senator: CYRWAY of Kennebec.

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

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

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

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

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

11           **§6307. Administration of emergency medication**

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

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

33           **3. Notification to parent or guardian that child may qualify for services.**  
34 Pursuant to Section 504 of the federal Rehabilitation Act of 1973 and the federal  
35 Individuals with Disabilities Education Act, 20 United States Code, Section 1400 et seq.,  
36 upon receipt of a parent's or guardian's request pursuant to subsection 2, the school  
37 administrative unit shall notify the parent or guardian that the parent's or guardian's child  
38 may qualify for services or accommodations under a Section 504 plan or an  
39 individualized education program, assist the parent or guardian with the exploration of

1 that option and encourage the parent or guardian to adopt that option if it is determined  
2 that the child is eligible for a Section 504 plan or an individualized education program.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

- 1           (1) The student's name;
- 2           (2) The name and purpose of the medication;
- 3           (3) The prescribed dosage;
- 4           (4) Detailed medical emergency symptoms that identify when the administration  
5           of an emergency medication is necessary;
- 6           (5) The method of administration;
- 7           (6) The frequency with which the medication may be administered;
- 8           (7) The circumstances under which the medication may be administered;
- 9           (8) Any potential adverse reactions by the student and recommended mitigation  
10           actions, including when to call emergency services;
- 11           (9) A protocol for observing the student after a medical emergency, including,  
12           but not limited to, whether the student should rest in the school's main office,  
13           whether the student may return to class and the length of time the student should  
14           be under direct observation; and
- 15           (10) The requirement that, following a medical emergency, the student's parent  
16           or guardian and the school nurse be contacted by the school principal or, if the  
17           principal is not available, by another school employee to continue the observation  
18           protocol as established in subparagraph (9).

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

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

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

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

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

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

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

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

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

- 13                   (1) A physician;  
14                   (2) A physician assistant;  
15                   (3) A school nurse;  
16                   (4) A registered nurse; or  
17                   (5) A public health nurse.

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

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

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

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

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

36                  **14. Duty of parent or guardian.** A student's parent or guardian shall provide to the  
37                  school administrative unit all materials necessary to administer an emergency medication  
38                  to the student pursuant to this section, including the information described in subsection  
39                  10, paragraph F. A school administrative unit is not responsible for providing any of the  
40                  necessary materials.

