Minnesota Department of Health

Report to the Minnesota Legislature: Medications Dispensed in Schools Study

January 15, 2002

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Introduction

The safe and efficacious administration of medication in schools is an important issue for students, parents, school personnel and health care providers. In its policy statement Guidelines for the Administration of Medication in School, the American Academy of Pediatrics states: "Many children and adolescents are able to attend school because of the effectiveness of their medications…" "Medication may be essential for continued functioning, either as a component of an elaborate treatment plan for the student with a complex disability or as the only treatment necessary for a student to maintain or regain control of his/her chronic illness…" "For most students the use of medication will be a convenient benefit to control acute minor or major illnesses, allowing a timely return to the classroom with minimal interference to the student and others."

At the request of the 2001 Minnesota Legislature, the Minnesota Department of Health, in consultation with the Minnesota Board of Nursing, initiated a study related to the promotion of "student health and safety in relation to administering medications in schools and addressing the changing health needs of students."

Laws of Minnesota 2001, CHAPTER 9 Article 1, Section 61 [MEDICATIONS DISPENSED IN SCHOOLS STUDY] directed that:

(a) The commissioner of health, in consultation with the board of nursing, shall study the relationship between the Nurse Practice Act, Minnesota Statutes, sections 148.171 to 148.285; and 121A.22, which specifies the administration of medications in schools and the activities authorized under theses sections, including the administration of prescription and nonprescription medications and medications needed by students to manage a chronic illness. The commissioner shall also make recommendations on necessary statutory changes needed to promote student health and safety in relation to administering medications in schools and addressing the changing health needs of students.

(b) The commissioner shall convene a work group to assist in the study and recommendations. The work group shall consist of representatives of the commissioner of human services; the commissioner of children, families, and learning; the board of nursing; the board of teaching; school nurses; parents; school administrators; school board associations; the American Academy of Pediatrics; and the Minnesota Nurse's Association.

(c) The commissioner shall submit these recommendations and any recommended statutory changes to the legislature by January 15, 2002.

This report reflects the information gathered and the issues identified by the workgroup convened to provide input and develop principles related to safe medication administration in schools.

Overview of Medication Administration in Minnesota Schools

Approximately one million children attend public school (K-12) in Minnesota every day. Providing services to promote the health of its pupils from early childhood through high school is required by Minnesota Statute 121A.21. Federal education and civil rights laws assure a free and appropriate education for all students, including those with disabilities and chronic illness for whom medication is a standard component of their ongoing long-term treatment. Children are returning to school sooner after acute illness, often while still taking medication to treat their illness.

The administration of medications has become a significant and growing aspect of school health service programs. For example, 1,294 medications were administered to students in one urban school district in Minnesota in 1985. By 2000, that number had increased to 35,111. An analysis of time allocated to safely manage the administration of Ritalin to one student with ADHD showed that it consumed 1,350 minutes, or 22.5 hours, per year.

The complexity of student's health care needs and increased medication usage has placed significant demands on school health care resources. There is an increasing disparity between student needs and resources. Frequently school nurses are asked to delegate medication administration activities to unlicensed personnel or teachers who may lack formal health care training. In an informal 1999 survey of Minnesota school nurses, full-time-equivalent school nurses reported giving an average of 228.3 medications per week and part-time nurses reported giving an average of 93.5 medications per week. Full-time-equivalent school nurses reported responsibility for health services in 6.8 buildings and part-time school nurses for 2.4 buildings. Full-time-equivalent school nurses reported delegating medication administration to an average of 6.2 individuals, and part-time school nurses reported delegating the same task to an average of 4.4 individuals.

National attention has recently been directed toward building a safer health care system, especially in the area of medication administration (To Err is Human: Building a Safer Health System, Institute of Medicine, 1999). The American Nurses Association supports the implementation of medication safety practices that are based on sound science and evaluation of those practices. Minnesota is one of several states that have recognized the need to further address safe medication administration in schools.

Background Information

Historically, school districts, school nurses, parents and health care providers have looked to the Minnesota Department of Health, the Minnesota Department of Children, Families and Learning, and the Minnesota Board of Nursing to provide information, consultation and/or technical assistance regarding the administration of medication in schools. The Minnesota School Health Guide, published by the Minnesota Department of Health in conjunction with the Minnesota Department of Children, Families and Learning, contains recommendations and sample policies and procedures for the administration of medications in schools. Consultation and technical assistance regarding school health services, including medication administration, is provided by the Minnesota Department of Health's School Health Consultant.

Minnesota Statutes 148.171 through 148.285 authorize the Board of Nursing to regulate nursing practice. This Nurse Practice Act establishes the scope of practice for nurses and is applicable regardless of the setting. Thus, school nurses practice under the jurisdiction of their nurse license. The medication administration standards and practices nurses usually implement are based on a model usually applied in a health care setting where there are numerous health care personnel. In the school setting, the only health care person is often the school nurse. Delegation of medication administration to school personnel who are not trained health care personnel requires the school nurse to use professional judgment to delegate such tasks in a manner that is safe for students and within the legal scope of nursing practice.

State policy regarding the administration of medication in Minnesota schools is established in Minnesota Statutes 121A.22 and 121A.221, Administration of Drugs and Medicine. Since its enactment in 1988, this statute has been revised several times. The most recent revision (2001) dealt with the safe possession and use of asthma inhalers by students in a school setting.

In February 2000, the Attorney General's office issued an interpretation regarding the authority of school nurses to provide non-prescription medications to students upon a parent's request. This interpretation concluded "school nurses have the authority to provide over-the-counter medications to students upon a parent's request, even without a physician's order." However, the opinion also noted that the "school nurse has the ultimate authority and responsibility to reject a parent's request and to decline to administer an over-the-counter medication if the nurse believes that such medication is unnecessary, inappropriate, or could lead to patient harm." The opinion further provided that a school district "could choose to adopt a policy that requires a physician's order before a school nurse administers a non-prescription medication to a student." While this interpretation is not

inconsistent with either the nurse practice act or the school medication statute, it is different from previous interpretations on which current school medication policies and procedures were based.

The increased interest in amending MS 121A.22, combined with the Attorney General's interpretation, suggests the need for a comprehensive statewide policy for the safe and efficacious administration of medication in Minnesota schools.

Legislative Study Process

The Minnesota Department of Health (MDH) and the Minnesota Board of Nursing met to design the process and timeline for the study. To provide consultation to the study and assist in the planning, analysis and evaluation of the workgroup activities, individuals from the Departments of Children, Families, & Learning and Human Services were invited to participate in an interagency state staff team.

The Commissioner of Health invited 20 key stakeholder organizations, agencies and groups to participate in the workgroup (see workgroup membership). At their first meeting, members were asked to identify the characteristics of a healthy and safe system for medication administration in schools, the challenges to assuring such a system and the elements that currently support such a system. At the second meeting, the workgroup reviewed the issues and developed ten principles that would support a healthy and safe system for medication administration in Minnesota schools.

Current Issues

The work group identified the following challenges related to safe medication administration in schools.

- The ability to locally determine a school district's policies is the cornerstone of Minnesota's education system. Currently, there are no state medication administration standards or guidelines to inform the development of local school district policies and procedures. This causes an inconsistency between districts that readily apparent to families in our mobile society. Parents express frustration in moving from district to district, as they confront differing policies and procedures.

- There is no single state authority responsible for the overall coordination of medication administration in the schools. The Minnesota Departments of Health, Human Services, and Children, Families, & Learning are all involved in providing technical assistance and consultation regarding school health services. School administrators, school nurses, and/or parents regularly request information

and guidance regarding medication administration practices and policies from one or more of these agencies.

- School nurses are accountable to multiple licensing boards. They are accountable to the Board of Nursing for their professional nursing licensure and public health certification and the Board of Teaching for their school nurse license. It is not commonly understood that the nurse practice act applies to any setting where nursing is practiced, including schools.

- Parents and students expect administration of medication to be student/family centered and adaptable to student needs. Families vary in their approach and cultural beliefs related to medications. As Minnesota becomes more culturally diverse, new ideas and attitudes about health care practices including medications are emerging.

- School personnel and parents report a disparity between student's needs and the availability of resources to help meet those needs. Schools currently use a variety of methods to fund school health services.

- The principles of nursing delegation of medication and supervision of unlicensed and untrained personnel in the school setting are not universally understood. The health and education system utilize different definitions for the word "delegation." The authority for nursing delegation and judgment rests with the individual registered nurse.

- There is no consistent statewide training for individuals who are not nurses or health care providers related to administration of medications to students in the school setting. A Minnesota-specific curriculum, "Assisting the Licensed School Nurse," which includes instruction on medication administration is available. The use of this or a similar curriculum needs to be encouraged.

- Communication strategies are required to assure safe medication administration. This includes communication between students/families, school staff, and physicians about individual student needs as well as about district medication administration policy and procedures.

The breadth of these issues identified by the workgroup illustrate that ensuring "student health and safety in relation to administering medications in schools" extends beyond the relationship between the Nurse Practice Act, MS 148.171 to 148.285 and MS 121A.22 Administration of Drugs and Medicine (in schools).

Work Group Principles

Safe and efficacious administration of medications to appropriately treat illness, acute and chronic, enhances student potential to achieve educational success. The work group identified the following principles to support safe medication administration in Minnesota schools.

- There must be school board policies regarding administration of medications in schools.
- A mechanism must be in place for identifying and adopting appropriate statewide standards on which policies are based.
- Local school district medication administration procedures must be based on consistent statewide standards and guidelines.
- Procedures should be student/family centered, individualized, flexible, and culturally responsive.
- Procedures must be developed with local health care professionals, district personnel, and district families.
- All parties involved, including district administration, must have appropriate knowledge of delegation of medication administration and supervision of personnel to whom medication administration is delegated.
- All personnel administering medications in school must have appropriate training.
- Information regarding safe medication administration must be provided by the state to key constituents in a clear, consistent and timely manner.
- Communication among student, parents, school personnel, health care providers and school districts is imperative concerning medication administration in schools.
- State and local resources must be available to support safe medication administration in schools.

Commissioner of Health Recommendations

The mission of the Minnesota Department of Health is to protect, maintain and improve the health of all Minnesotans. Good health is a necessary foundation for students to be able to learn. Many children who have chronic and/or acute health conditions can attend school because of the effectiveness of their prescribed medications(s). Student access to medication while at school, to appropriately treat illness, acute or chronic, enhances attendance and reduces a potential barrier to educational success.

The recommendations of the Commissioner of Health are based on the workgroup issues and principles, current literature and research, and the work of the interagency state staff team. These recommendations are intended to promote student health and safety in relation to administering medications in schools and to address the changing health needs of students.

Recommendation 1:

Given that there is no single state authority responsible for the overall coordination of medication administration in the schools; that there are no state medication administration standards or guidelines; and schools use a variety of methods to provide and fund school health services, the Commissioner of Health recommends:

The Department of Health, in consultation with the Department of Children, Families and Learning shall design a state system for the safe administration of prescription and nonprescription medications in schools. The system should address (a) development and periodic review of state standards* and guidelines for medication administration in the schools; (b) communication of such state standards and guidelines; (c) development and periodic review of model policies*** and procedures****; (d) technical assistance to school districts related to medication administration; (e) ongoing training needs for the safe administration of medications to students; (f) identification of mechanisms to assist in the resolution of conflicts; (g) ongoing evaluation of the overall effectiveness of the system in promoting student health and safety; and (h) identification of state and local school district resources needed for the effective implementation of such a system.**

Recommendation 2:

Given that communication is required to assure safe medication administration in the schools; that parents and students expect administration of medication to be student/family centered and adaptable to student needs; that the principles of nursing delegation of medication and supervision of untrained personnel in the school setting are not universally understood; that the independent character of Minnesota school districts requires the development of mechanisms to achieve clarity, desirability and doability of safe student medication administration the Commissioner of Health recommends:

The Department of Health, in collaboration with the Department of Children, Families and Learning and the Board of Nursing shall convene a workgroup to provide input into the development of a state system related to medication administration in the schools. The workgroup shall include members as defined in Laws of Minnesota 2001, Chapter 9, article 1, section 61 (b).

Recommendation 3:

Given that good health is a necessary foundation for students to be able to learn and that student access to medication while at school enhances attendance and reduces a potential barrier to educational success, the Commissioner of Health receommends:

The Department of Health in collaboration with the Department of Children, Families and Learning will provide the legislature with any needed legislative changes to the implementation of a safe medication administration system in Minnesota schools.

These recommendations will move the state forward in improving conditions for safe student medication administration

Definitions:

*Standard: A statement that defines a goal of practice. It differs from a guideline in that it carries a great incentive for universal compliance. It differs from regulation in that compliance is not always required. It usually has a based of legitimacy or validity based on scientific or epidemiological data, or, when this evidence is lacking, it represents the widely agreed upon, state of the art, high quality of practice.[7]

**Guideline: A statement of advice or instruction pertaining to practice. It originates in an organization with acknowledged professional standing. A guideline is developed in response to a stated request or perceived need for advice.[7]

***Policy: A framework for operational decision, which specifies a recommended course of direction consistent with the intent of the organization. A policy is an understanding by members of a group that make the actions of each person more predictable.[8]

****Procedure: Specific guidelines telling how to implement policy. A way of telling how to perform activities or tasks, e.g., who does what and when.[8]

References:

1. American Academy of Pediatrics, Committee on School Health. *School Health: Policy and Practice.* Elk Grove Village, IL: American Academy of Pediatrics; 1993:9-16.

2. Peterson, Berit. *Edina Schools Health Services Annual Report, 2000-01.* Edina, MN: Edina Public School; 2000-01.

3. Minnesota Department of Health. *Minnesota School Nurse Informational Survey.* Healthy Children Healthy Schools. Division of Family Health, Minnesota Department of Health. July 2000: 3 – 8.

4. Kohn, Linda T; Corrigan, Janet M; and Donaldson, Molla S. *To Err is Human: Building a Safer Health System.* Committee of Health Care in American, Institute of Medicine; 2000.

5. Foley, Mary. *Testimony to the Committee on Health, Education, Labor, and Pensions*. American Nurses Association; January 26, 2000.

6. Gilbert, Alan, Chief Deputy and Solicitor General. Letter to Ralph Christofferson, Superintendent, Lake of the Woods ISD #390, *Re: Authority of School Nurses to Provide Non-Prescription Medications;* February 14, 2000.

7. American Public Health Association & American Academy of Pediatrics. *Caring for Our Children. National Health and Safety Performance Standards: Guidelines for Out-of-Home Child Care Programs.* Ann Arbor, MI, 1992.

8. Minnesota Department of Health. *Guidelines for Policy & Procedure Development.* Minneapolis, MN: Section of Public Health Nursing, Minnesota Department of Health, December 1986.

Appendix

Medications Dispensed in Schools

Study

Sec. 61. [MEDICATIONS DISPENSED IN SCHOOLS STUDY.]

(a) The commissioner of health, in consultation with the board of nursing, shall study the relationship between the Nurse Practice Act, Minnesota Statutes, sections 148.171 to 148.285; and 121A.22, which specifies the administration of medications in schools and the activities authorized under these sections, including the administration of prescription and nonprescription medications and medications needed by students to manage a chronic illness. The commissioner shall also make recommendations on necessary statutory changes needed to promote student health and safety in relation to administering mediations in schools and addressing the changing health needs of students.

(b) The commissioner shall convene a work group to assist in the study and recommendations. The work group shall consist of representatives of the commissioner of human services; the commissioner of children, families, and learning; the board of nursing; the board of teaching; school nurses; parents; school administrators; school board associations; the American Academy of Pediatrics; and the Minnesota Nurse's Association.

(c) The commissioner shall submit these recommendations and any recommended statutory changes to the legislature by January 15, 2002.

Article 1, Section 61

Medication Study Work Group

Organization Invited	Name & Address of Representatives	Work Group Meetings	
		Sep.	Nov.
Minnesota Board of Nursing - Co-chair *	Vicky Jenson 14955 Overlook Dr. Savage, MN 55378	X	X
Minnesota Department of Health - Co-chair*	Gayle Hallin 85 East Seventh Place, Suite 400 St. Paul, MN 55101	X	X
American Academy of Pediatrics, Minnesota Chapter	David Hendricks 156 Farrington St. St. Paul, MN 55102	X	
Education Minnesota	41 Sherburne Ave. St. Paul, MN 55103		
Minnesota Local Public Health Association	125 Charles Ave. St. Paul, MN 55103		
Minnesota Association of School Administrators*	Nancy Rajanen 4115 Ambassador Blvd. St. Francis, MN 55070	X	X
Minnesota Association of Secondary School Principals	Shelly Jabas 1001 Kingwood Street Brainerd, MN 56401	X	X
Minnesota Board of Pharmacy	Michele Boock 2829 University Ave. SE, #530 Minneapolis, MN 55414	X	X
Minnesota Board of Teaching*	Nancy Triplett 1500 Highway 36 West Roseville, MN 55113	X	
Minnesota Department of Children, Families, and Learning*	Mary Thissen Milder 1500 Highway 36 West Roseville, MN 55113	X	X
Minnesota Department of Human Services*	Amalia Mendoza 444 Lafeyette Rd. St. Paul, MN 55155	X	
Minnesota Elementary School Principals' Association	Elizabeth "Libby" Bergen 2250 East 17th Ave. Shakopee, MN 55379	X	X

Medication Study Work Group

Organization Invited	Name & Address of Representatives	Work Group Meetings	
		Sep.	Nov.
Minnesota Medical Association	Pat Hanson 3422 Broadway St. NE, Suite 300 Minneapolis, MN 55413	X	X
Minnesota Non Public Education Council	Nora Thorp 336 N. Robert St, Suite 1218 St. Paul, MN 55101		
Minnesota Nurses Association*	Carol Diemert 1625 Energy Park Dr. St. Paul, MN 55108		X
	Peter Mitchell		
Minnesota School Boards Association*	Bob Meeks 1900 W. Jefferson St. Peter, MN 56082	X	X
Minnesota State High School League	Skip Peltier 2100 Freeway Blvd. Brooklyn Center, MN 55430		
Parent* - American Diabetes Association	Jim McGowan 366 Selby Ave., Suite 201 St. Paul, MN 55102	X	X
Family Voices/PACER	Carolyn Allshouse 8161 Normandale Blvd. Minneapolis, MN 55437	X	X
MCSHN Family Consultants	Pat Hodge RR 1, Box 103A Bertha, MN 556437	X	
PTSA	1557 Coon Rapids Blvd. NW Coon Rapids, MN 55433		
School Nurse Organization of Minnesota*	Denise Ornelas 2827 Hillvale Trail N. Oakdale, MN 55128	X	X
	Sandy Munson P.O. Box 4000 Walker, MN 56484	X	X

Work Group Principles
With corresponding Next Steps*

There must be school board policies regarding administration of medications in schools.

The law MS 121A.22 and MS 121A.221 currently requires schools to develop policies for medication administration. The state should develop model guidelines to assist school board/districts with this requirement.

A mechanism must be in place for identifying and adopting appropriate statewide standards on which policies are based.

Key stakeholders should be engaged to assist the state in the development of safe medication administration standards in the school setting. These standards should be based on best practice models, current research, and the issues and principles presented in this report by the Commissioner's medication study work group. Individual student/family and district flexibility need to be considered as districts work to adopt and implement statewide standards.

Local school district medication administration procedures must be based on consistent statewide standards and guidelines.

A statewide task force should develop Minnesota model medication administration standards and guidelines. A lead state agency should be given the responsibility to facilitate the development, dissemination, training, and implementation of statewide medication administration standards and guidelines.

Procedures should be student-family centered, individualized, flexible, and culturally responsive.

The use of a task force with broad-based community representation is desirable to discuss and implement best practices related to being student/family centered, flexible, and culturally responsive.

Procedures must be developed with local health care professionals, district personnel, and district families.

School based medication administration procedures will be better accepted if all individuals involved in the process are invited to provide input. A systematic process should be identified to collectively determine goals to be accomplished and a process and timeline for development set forth. It is necessary that financial considerations be addressed at each step in the process. Assisting schools in assessing and obtaining financial resources will strengthen the potential for implementation.

All parties involved, including district administration, must have appropriate knowledge of delegation of medication administration and supervision of personnel to whom medication administration is delegated.

Nursing delegation references and resources should be available specific to medication administration in the school setting. These resources would include a discussion of legislation and legal opinions related to medication administration in the areas of health, education, social services, and nursing practice.

1. *Decision-making models and flow charts should be developed and distributed to district superintendents and district school boards, parents, advocates, and school nurses.*
2. *Instructional materials and training regarding "delegation" would be available in a variety of format to local districts, parents, professional organizations and regional collaborative structures.*

All personnel administering medications in school must have appropriate training.

A lead agency should be given responsibility to facilitate the training requirements. This lead agency should be responsible to determine the curriculum content requirements, develop training modules, and create a system for planning, implementation and evaluation of the training. The lead state agency would annually notify school districts of training responsibility regarding administration of medication. School districts could be required to sign and submit an Annual Statement of Assurances that training has been completed.

Information regarding safe medication administration must be provided by the state to key constituents in a clear, consistent and timely manner.

A lead state agency should be identified and given the responsibility to coordinate information dissemination related to safe medication administration in the school setting. All the activities of the lead agencies will be coordinated in collaboration with other appropriate organizations that have an interest in safe medication administration in the schools. Mechanisms for communication should be developed using a multiple media approach that includes newsletters, mail, web site, meetings, conferences, e-mail. The communication structures developed must address the need for routine and episodic contact and be evaluated annually for effectiveness.

Communication among student, parents, school personnel, health care providers and school districts is imperative concerning medication administration in schools.

There should be an assessment and local communication network and system. The assessment would identify what is already in place and what will need to be put in place to have an effective communication concerning medication administration in schools. The state could serve as a clearinghouse for information related to safe medication administration in school.

State and local resources must be available to support safe medication administration in schools.

Methods of determining cost and providing funds for safe medication need to be studied. The lead state agency and key constituents should provide guidance related to cost identification and support the best mechanisms for funding (e.g. incentive, punitive, per pupil dollars). The cost of safe medication administration

in the school should take into account the planning and intervention related to student needs, staff resources and state guidelines. Development and review of local medication policy and procedures, requirements for training and supervision are necessary to assure student safety and employee competence.

*The work group developed principles to support safe medication administration in Minnesota schools. The corresponding next steps were developed in small groups and reported back to the workgroup. However, time did not permit discussion and refinement of the next steps by the entire workgroup as was done with the principles.

Updated: Tuesday, 18-September-01 12:00:50 CST

School Medication Administration Study Workgroup

Progress Notes - September, 2001

The 2001 Minnesota legislature requires the Commissioner of Health, in consultation with the Minnesota Board of Nursing, to study issues related to the administration of medications in schools, including the administration of prescription and nonprescription medications and medications needed by students to manage a chronic illness. The legislation also requires the Commissioner to make recommendations on necessary statutory changes needed to promote student health and safety in relation to administering medications in school and addressing the changing health needs of students to the legislature by January 15, 2002.

As required by the legislation, Commissioner Jan Malcolm has convened a work group consisting of representatives of the following agencies or groups to assist in the study:

- Minnesota Department of Health (MDH)
- Minnesota Department of Human Services (DHS)
- Minnesota Department of Children, Families and Learning (CFL)
- Minnesota Board of Nursing (Board)
- Minnesota Board of Teaching
- School Nurses
- Parents
- School Administrators
- Minnesota School Boards Associations
- American Academy of Pediatrics
- Minnesota Nurses Association

In addition, the following groups have also been invited to participate:

- Minnesota Board of Pharmacy
- Minnesota Academy of Family Practice
- Minnesota Medical Association
- Education Minnesota (Teachers)
- Local Public Health Association of Minnesota
- Minnesota High School League

A planning group comprised of representatives from the MDH, Board of Nursing, DHS, and CFL has scheduled three local all-day sessions for the work group. The intent of these meetings is to identify issues related to medication administration in schools, analyze data and provide information

to assist the Commissioner in making recommendations.

The planning group has contacted each group/agency requesting representative(s) be identified to participate in the study group. If your agency/group has not received the information, please contact Cheryl Smoot, School Health/Child Care Consultant, at the MDH at (651) 281-9961 or cheryl.smoot@health.state.mn.us.

The first session of the work group will focus on systems for medication administration in schools, challenges to assuring healthy and safe systems for medication administration in schools, and elements that currently support a system for safe medication administration in schools. The agendas for sessions two and three will be addressed in a later Progress Note. Below is the list of the workgroup dates and locations.

- September 20, 2001.....Minnesota Department of Children, Families and Learning, Roseville, MN
- October 11, 2001.....PACER Center, Bloomington, MN
- November 15, 2001.....Minnesota Department of Health, Energy Park Drive, St. Paul, MN

*Sessions will be held from 9:00 a.m. until 4:00 p.m. and lunch will be provided for work group members.

Contacts: MDH - Cheryl Smoot, School Health/Child Care Consultant, (651) 281-9961, cheryl.smoot@health.state.mn.us and Board of Nursing - Shirley A. Brekken, Executive Director, (612) 617-2276; shirley.brekken@state.mn.us.

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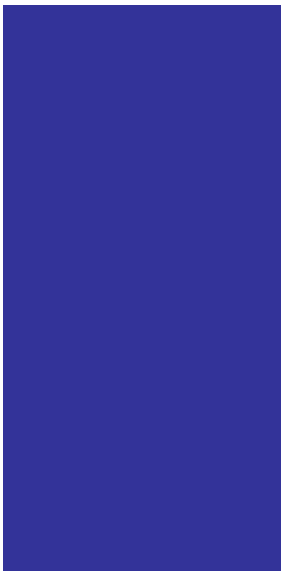

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School Medication Administration Study Workgroup

Progress Notes - October 2001

On September 20, 2001, the work group convened in Roseville, Minnesota. Representatives from American Academy of Pediatrics, Minnesota Chapter, Minnesota Association of School Administrators, Minnesota Association of Secondary Principals, Minnesota Board of Nursing, Minnesota Board of Pharmacy, Minnesota Board of Teaching, Minnesota Department of Children, Families and Learning, Minnesota Department of Health, Minnesota Department of Human Services, Minnesota Elementary School Principals' Association, Minnesota School Boards Association, School Nurse Organization of Minnesota, Minnesota Parents (PACER and Family Voices, American Diabetes Association, Minnesota Chapter) attended.

Each representative presented responses to the following questions:

- To assure the health and safety of children and youth what should a system for medication administration in schools look like?
- What do you see as the challenges to assuring this healthy and safe system for medication administration in the schools discussed in question one?
- What are the elements that currently support a healthy and safe system for medication administration in schools?

Due to the state workers strike, the October 11, 2001, meeting was canceled. The final meeting will be held November 13, 2001, at the Minnesota Department of Health, Snelling Office Park, St. Paul, Minnesota.* The purpose of the meeting is to report a compilation of the responses presented at the first work group session and to identify assumptions and steps necessary to promote a system for safe medication administration in schools.

Meeting materials and assignments will be mailed to work group participants prior to the November 13, 2001 meeting. Questions should be directed to Cheryl Smoot, School Health/Child Care Consultant at (651) 281-9961 or cheryl.smoot@health.state.mn.us.

**This is a change in date. The meeting will be held from 9:00 a.m. to 3:00 p.m. Lunch is provided for work group members only.*

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School Medication Administration Study Workgroup

Progress Notes - November 2001

The work group, convened by the Commissioner of Health to study issues related to the administration of medications in schools, met for the second time on November 13, 2001 in St. Paul, Minnesota. Representatives were present from the following organizations: Minnesota Association of School Administrators, Minnesota Association of Secondary Principals, Minnesota Elementary School Principals Association, Minnesota School Boards Association, School Nurse Organization of Minnesota, Minnesota Family Voices and PACER, Minnesota Chapter ofthe American Diabetes Association, Minnesota Children with Special Health Needs Family Consultant, Minnesota Nurses Association, Minnesota Medical Association, Minnesota Board of Pharmacy, Minnesota Department of Children, Families and Learning, Minnesota Department of Health, and Minnesota Board of Nursing. Co-chairpersons, Gayle Hallin, Assistant Commissioner, Department of Health, and Vicki Jensen, Secretary, Board of Nursing facilitated the meeting.

The work group reviewed a compiled list of responses to three questions presented by the work group members at the September 20, 2001 meeting (see Progress Notes - October 2001). Work group members affirmed the list represented their responses accurately. Representatives of the Minnesota Nurses Association and the Minnesota Medical Association, who had not attended the September 20th meeting, were presented with the opportunity to add to the responses. Both representatives noted their responses were included in the compiled list.

Based on the identification of components of a safe medication administration in schools system, the challenges to such a system, and the elements currently in place which support a safe system, the work group developed the following principles related to the development of a system for safe medication administration in schools:

- There must be school board policies regarding administration of medications in schools.
- A mechanism must be in place for identifying and adopting appropriate statewide standards on which policies are based.
- Local school district medication administration procedures must be based on consistent statewide standards and guidelines.
- Procedures should be student-centered, individualized, and culturally

responsive.

- Procedures must be developed with local health care professionals and school district personnel and families.
- All parties involved, including district administration, must have appropriate knowledge of delegation of medication administration and supervision of personnel to whom medication administration is delegated.
- All personnel administering medications in schools must have appropriate training.
- Information regarding safe medication administration must be provided by the state to key constituents in a clear, consistent, and timely manner.
- Communication among students, parents, school personnel, and health care providers is imperative concerning medication administration in schools.
- State and local resources must be available to support safe medication administration in schools.

A draft report will be mailed to work group participants for review and comment prior to submission to the Commissioner. A report to the legislature is due by January 15, 2002.

Questions should be directed to Cheryl Smoot, School Health/Child Care Consultant at (651)281-9961 or cheryl.smoot@health.state.mn.us.

November 2001

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For questions about this page, please contact our Maternal and Child Health Section: mchweb@health.state.mn.us

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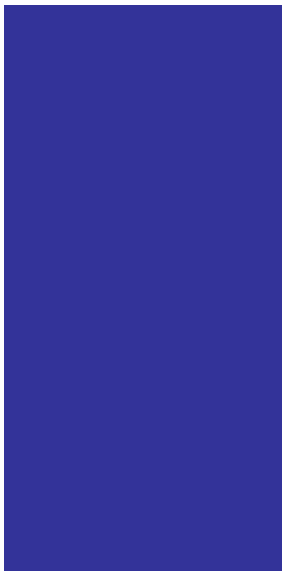

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121A.22 Administration of drugs and medicine.

Subdivision 1. Applicability. This section applies only:

(1) when the parent of a pupil requests school personnel to administer drugs or medicine to the pupil; or

(2) when administration is allowed by the individual education plan of a child with a disability.

The request of a parent may be oral or in writing. An oral request must be reduced to writing within two school days, provided that the district may rely on an oral request until a written request is received.

Subd. 2. Exclusions. In addition, this section does not apply to drugs or medicine:

(1) that can be purchased without a prescription;

(2) that are used by a pupil who is 18 years old or older;

(3) that are used in connection with services for which a minor may give effective consent, including section 144.343, subdivision 1, and any other law;

(4) that are used in situations in which, in the judgment of the school personnel who are present or available, the risk to the pupil's life or health is of such a nature that drugs or medicine should be given without delay;

(5) that are used off the school grounds;

(6) that are used in connection with athletics or extra curricular activities;

(7) that are used in connection with activities that occur before or after the regular school day;

(8) that are provided or administered by a public health agency in order to prevent or control an illness or a disease outbreak as provided for in sections 144.05 and 144.12; or

(9) that are prescription asthma or reactive airway disease medications self-administered by a pupil with an asthma inhaler if the district has received a written authorization from the

pupil's parent permitting the pupil to self-administer the medication, the inhaler is properly labeled for that student, and the parent has not requested school personnel to administer the medication to the pupil. The parent must submit written authorization for the pupil to self-administer the medication each school year.

Subd. 3. Labeling. Drugs or medicine subject to this section must be in a container with a label prepared by a pharmacist according to section 151.212 and applicable rules.

Subd. 4. Administration. Drugs and medicine subject to this section must be administered in a manner consistent with instructions on the label. Drugs and medicine subject to this section must be administered, to the extent possible, according to school board procedures that must be developed in consultation:

(1) with a school nurse, in a district that employs a school nurse;

(2) with a licensed school nurse, in a district that employs a licensed school nurse;

(3) with a public or private health or health-related organization, in a district that contracts with a public or private health or health-related organization, according to section 121A.21; or

(4) with the appropriate party, in a district that has an arrangement approved by the commissioner of children, families, and learning, according to section 121A.21.

Subd. 5. Children with a disability. For drugs or medicine used by children with a disability, administration may be as provided in the individual education plan.

Subd. 6. Health treatments. For the purpose of this section, special health treatments and health functions, such as catheterization, tracheostomy suctioning, and gastrostomy feedings, do not constitute administration of drugs or medicine.

HIST: 1988 c 626 s 2; 1991 c 265 art 3 s 38; 1998 c 397 art 3 s 103; art 11 s 3; 1998 c 398 art 5 s 55; 2001 c 84 s 1

121A.221 Possession and use of asthma inhalers by asthmatic students.

(a) In a school district that employs a school nurse or provides school nursing services under another arrangement, the school nurse or other appropriate party must assess the student's knowledge and skills to safely possess and use an asthma inhaler in a school setting and enter into the student's school health record a plan to implement safe possession and use of asthma inhalers.

(b) In a school that does not have a school nurse or school nursing services, the student's parent or guardian must submit written verification from the prescribing professional that documents an assessment of the student's knowledge and skills to safely possess and use an asthma inhaler in a school setting has been completed.

HIST: 2001 c 84 s 2

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THE NURSE PRACTICE ACT

Many laws and rules impact the practice of nursing. Chief among them are the Nurse Practice Act and the Minnesota Board of Nursing rules. The Nurse Practice Act is the statute or law which governs nursing in Minnesota. It is found in Minnesota Statutes section 148.171 to 148.285. The law addresses such topics as the definitions of advanced practice, professional, and practical nursing; grounds for disciplinary action and types of disciplinary action; requirements for licensure, registration, and nursing program approval; and the powers of the Board. The law also provides authority for the Board to promulgate rules. These rules are found in Minnesota Rules Chapter 6301 to 6330.

The Nurse Practice Act and the related rules apply in all settings where nursing is practiced. There may be additional laws and rules which also apply, depending on the setting in which the nurse is practicing. The Nurse Practice Act always applies whenever the nurse is practicing nursing.

Because the Nurse Practice Act has such universal application, it is important that all nurses and employers of nurses be familiar with this law. Copies of the Nurse Practice Act and the Rules are available at:

Minnesota's Bookstore
117 University Avenue
St. Paul, Minnesota 55155
(651) 297-3000 or (800) 657-3706

The law and rules may also be accessed at the Board's website:
www.nursingboard.state.mn.us

If you obtained copies of the Nurse Practice Act and the Rules prior to 1999, you may want to obtain updated copies. The legislation related to advanced practice registered nursing went into effect July 1, 1999. This resulted in significant changes to the Nurse Practice Act and Rules.

Originally published in the Board of Nursing newsletter, *For Your Information*, Spring 2000
Reviewed and updated, May 2001

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Legal Definitions Regarding Nursing Practice

NURSE PRACTICE ACT
Minnesota Statutes Section 148.171

148.171 DEFINITIONS; TITLE.

Subdivision 1. **Title.** Sections 148.171 to 148.285 shall be referred to as the Minnesota Nurse Practice Act.

Subd. 2. **Scope.** As used in sections 148.171 to 148.285, the definitions in this section have the meanings given.

Subd. 3. **Advanced practice registered nurse.** "Advanced practice registered nurse," abbreviated APRN, means an individual licensed as a registered nurse by the board and certified by a national nurse certification organization acceptable to the board to practice as a clinical nurse specialist, nurse anesthetist, nurse-midwife, or nurse practitioner.

Subd. 4. **Board.** "Board" means the Minnesota board of nursing.

Subd. 5. **Clinical nurse specialist practice.** "Clinical nurse specialist practice" means the provision of patient care in a particular specialty or subspecialty of advanced practice registered nursing within the context of collaborative management, and includes: (1) diagnosing illness and disease; (2) providing nonpharmacologic treatment, including psychotherapy; (3) promoting wellness; and (4) preventing illness and disease. The certified clinical nurse specialist is certified for advanced practice registered nursing in a specific field of clinical nurse specialist practice.

Subd. 6. **Collaborative management.** "Collaborative management" is a mutually agreed upon plan between an advanced practice registered nurse and one or more physicians or surgeons licensed under chapter 147 that designates the scope of collaboration necessary to manage the care of patients. The advanced practice registered nurse and the one or more physicians must have experience in providing care to patients with the same or similar medical problems, except that certified registered nurse anesthetists may continue to provide anesthesia in collaboration with physicians, including surgeons, podiatrists licensed under chapter 153, and dentists licensed under chapter 150A. Certified registered nurse anesthetists must provide anesthesia services at the same hospital, clinic, or health care setting as the physician, surgeon, podiatrist, or dentist.

Subd. 7. **Consultation.** "Consultation" means the process in which an advanced practice registered nurse who maintains primary management responsibility for a patient's care seeks advice or opinion of a physician or another member of the health care team.

Subd. 8. **Licensed practical nurse.** "Licensed practical nurse," abbreviated L.P.N., means an individual licensed by the board to practice practical nursing.

Subd. 9. **Nurse.** "Nurse" means registered nurse, advanced practice registered nurse, and licensed practical nurse unless the context clearly refers to only one category.

Subd. 10. **Nurse-midwife practice.** "Nurse-midwife practice" means the management of women's primary health care, focusing on pregnancy, childbirth, the postpartum period, care of the newborn, and the family planning and gynecological needs of women and includes diagnosing and providing nonpharmacologic treatment within a system that provides for consultation, collaborative management, and referral as indicated by the health status of patients.

Subd. 11. **Nurse practitioner practice.** "Nurse practitioner practice" means, within the context of collaborative management: (1) diagnosing, directly managing, and preventing acute and chronic illness and disease; and (2) promoting wellness, including providing nonpharmacologic treatment. The certified nurse practitioner is certified for advanced registered nurse practice in a specific field of nurse practitioner practice.

Subd. 12. **Nursing assistant.** "Nursing assistant" means an individual providing nursing or nursing-related services that do not require the specialized knowledge and skill of a nurse, at the direction of a nurse, but does not include a licensed health professional or an individual who volunteers to provide such services without monetary compensation.

Subd. 13. **Practice of advanced practice registered nursing.** The "practice of advanced practice registered nursing" means the performance of clinical nurse specialist practice, nurse-midwife practice, nurse practitioner practice, or registered nurse anesthetist practice as defined in subdivisions 5, 10, 11, and 21. The practice includes functioning as a direct care provider, case manager, consultant, educator, and researcher. The practice of advanced practice registered nursing also includes accepting referrals from, consulting with, cooperating with, or referring to all other types of health care providers, including but not limited to physicians, chiropractors, podiatrists, and dentists, provided that the advanced practice registered nurse and the other provider are practicing within their scopes of practice as defined in state law. The advanced practice registered nurse must practice within a health care system that provides for consultation, collaborative management, and referral as indicated by the health status of the patient.

Subd. 14. **Practice of practical nursing.** The "practice of practical nursing" means the performance for compensation or personal profit of any of those services in observing and caring for the ill, injured, or infirm, in applying counsel and procedure to safeguard life and health, in administering medication and treatment prescribed by a licensed health professional, which are commonly performed by licensed practical nurses and which require specialized knowledge and skill such as are taught or acquired in an approved school of practical nursing, but which do not require the specialized education, knowledge, and skill of a registered nurse.

Subd. 15. **Practice of professional nursing.** The "practice of professional nursing" means the performance for compensation or personal profit of the professional interpersonal service of: (1) providing a nursing assessment of the actual or potential health needs of individuals, families, or communities; (2) providing nursing care supportive to or restorative of life by functions such as skilled ministration of nursing care, supervising and teaching nursing personnel, health teaching and counseling, case finding, and referral to other health resources; and (3) evaluating these actions. The practice of professional nursing includes both independent nursing functions and delegated medical functions which may be performed in collaboration with other health team members, or may be delegated by the professional nurse to other nursing personnel. Independent nursing function may also be performed autonomously. The practice of professional nursing requires that level of special education, knowledge, and skill ordinarily expected of an individual who has completed an approved professional nursing education program as described in section 148.211, subdivision 1.

Subd. 16. **Prescribing.** "Prescribing" means the act of generating a prescription for the preparation of, use of, or manner of using a drug or therapeutic device in accordance with the provisions of section 148.235. Prescribing does not include recommending the use of a drug or therapeutic device which is not required by the federal Food and Drug Administration to meet the labeling requirements for prescription drugs and devices. Prescribing also does not include recommending or administering a drug or therapeutic device perioperatively by a certified registered nurse anesthetist.

Subd. 17. **Prescription.** "Prescription" means a written direction or an oral direction reduced to writing provided to or for an individual patient for the preparation or use of a drug or therapeutic device.

Subd. 18. **Public health nurse.** "Public health nurse" means a registered nurse who meets the voluntary registration requirements established by the board by rule.

Subd. 19. **Referral.** "Referral" means the process in which an advanced practice registered nurse directs a patient to a physician or another health care professional for management of a particular problem or aspect of the patient's care.

Subd. 20. **Registered nurse.** "Registered nurse," abbreviated R.N., means an individual licensed by the board to practice professional nursing.

Subd. 21. **Registered nurse anesthetist practice.** "Registered nurse anesthetist practice" means the provision of anesthesia care and related services within the context of collaborative management, including selecting, obtaining, and administering drugs and therapeutic devices to facilitate diagnostic, therapeutic, and surgical procedures upon request, assignment, or referral by a patient's physician, dentist, or podiatrist.

Subd. 22. **Registered nurse, certified.** "Registered nurse, certified," abbreviated RN,C, means a registered nurse who has received certification from a national nursing organization or national nurse certification organization for practice according to subdivision 15 in a specialized field of professional nursing. A registered nurse, certified, shall not practice advanced practice registered nursing as described in subdivision 5, 10, 11, 13, or 21.

BOARD OF NURSING RULES
Minnesota Rules Part 6321.0100

6321.0100 DEFINITIONS.

Subpart 1. Scope. The definitions in this part apply to Minnesota Statutes, sections 148.171 to 148.285.

Subp. 2. Monitoring. "Monitoring" means the periodic inspection by a registered nurse or licensed practical nurse of a directed function or activity and includes watching during performance, checking, and tracking progress, updating a supervisor of progress or accomplishment by the person monitored, and contacting a supervisor as needed for direction and consultation.

Subp. 3. Supervision. "Supervision" means the guidance by a registered nurse for the accomplishment of a function or activity. The guidance consists of the activities included in monitoring as well as establishing the initial direction, delegating, setting expectations, directing activities and courses of action, critical watching, overseeing, evaluating, and changing a course of action.

MINNESOTA BOARD OF NURSING

Comparison of Elements of the Definitions of Professional Nursing and Practical Nursing Nurse Practice Act

PROFESSIONAL NURSING	PRACTICAL NURSING
Minnesota Statutes Section 148.171 (15) The "practice of professional nursing" means the performance for compensation or personal profit of the professional interpersonal service of:	**Minnesota Statutes Section 148.171 (14)** The "practice of practical nursing" means the performance for compensation or personal profit of any of those services in:
• providing a nursing assessment of the actual or potential health needs of individuals, families or communities;	• observing and

• providing nursing care supportive to or restorative of life by functions such as
  • skilled ministration of nursing care,
  • supervising and teaching nursing personnel,
  • health teaching and counseling,
  • case finding,
  • referral to other health resources,
	• caring for the ill, injured or infirm,
	• applying counsel and procedure to safeguard life and health,

• evaluating these actions.	
The practice of professional nursing includes both independent nursing functions and delegated medical functions • which may be performed in collaboration with other health team members, or • may be delegated by the professional nurse to other nursing personnel. Independent nursing functions may also be performed autonomously.	• administering medication and treatment prescribed by a licensed health professional.
	♦ which are commonly performed by licensed practical nurses,
The practice of professional nursing requires that level of special education, knowledge and skill ordinarily expected of an individual who has completed an approved professional nursing education program as described in statute.	♦ which require specialized knowledge and skill such as are taught or acquired in an approved school of practical nursing, ♦ which do not require the specialized education, knowledge and skill of a registered nurse.

MINNESOTA BOARD OF NURSING

Definitions of Professional Nursing and Practical Nursing
Nurse Practice Act

PROFESSIONAL NURSING	PRACTICAL NURSING
Minnesota Statutes Section 148.171 (15) The "practice of professional nursing" means the performance for compensation or personal profit of the professional interpersonal service of:	**Minnesota Statutes Section 148.171 (14)** The "practice of practical nursing" means the performance for compensation or personal profit of any of those services in:
(a) providing a nursing assessment of the actual or potential health needs of individuals, families, or communities; (b) providing nursing care supportive to or restorative of life by functions such as skilled ministration of nursing care, supervising and teaching nursing personnel, health teaching and counseling, case finding, and referral to other health resources; and (c) evaluating these actions. The practice of professional nursing includes both independent nursing functions and delegated medical functions which may be performed in collaboration with other health team members, or may be delegated by the professional nurse to other nursing personnel. Independent nursing functions may also be performed autonomously. The practice of professional nursing requires that level of special education, knowledge, and skill ordinarily expected of an individual who has completed an approved professional nursing education program as described in section 148.211, subdivision 1.	observing and caring for the ill, injured, or infirm, in applying counsel and procedure to safeguard life and health, in administering medication and treatment prescribed by a licensed health professional, which are commonly performed by licensed practical nurses and which require specialized knowledge and skill such as are taught or acquired in an approved school of practical nursing, but which do not require the specialized education, knowledge, and skill of a registered nurse.

151.01 Definitions.

Subdivision 1. Words, terms, and phrases. Unless the language or context clearly indicates that a different meaning is intended, the following words, terms, and phrases, for the purposes of this chapter, shall be given the meanings subjoined to them.

Subd. 2. Pharmacy. "Pharmacy" means an established place of business in which prescriptions, drugs, medicines, chemicals, and poisons are prepared, compounded, dispensed, vended, or sold to or for the use of patients and from which related clinical pharmacy services are delivered.

Subd. 3. Pharmacist. The term "pharmacist" means an individual with a currently valid license issued by the board of pharmacy to practice pharmacy.

Subd. 4. Repealed, 1988 c 550 s 20

Subd. 5. Drug. The term "drug" means all medicinal substances and preparations recognized by the United States Pharmacopoeia and National Formulary, or any revision thereof, and all substances and preparations intended for external and internal use in the diagnosis, cure, mitigation, treatment, or prevention of disease in humans or other animals, and all substances and preparations, other than food, intended to affect the structure or any function of the bodies of humans or other animals.

Subd. 6. Medicine. The term "medicine" means any remedial agent that has the property of curing, preventing, treating, or mitigating diseases, or that is used for that purpose.

Subd. 7. Poisons. The term "poisons" means any substance which, when introduced into the system, directly or by absorption, produces violent, morbid, or fatal changes, or which destroys living tissue with which it comes in contact.

Subd. 8. Chemical. The term "chemical" means all medicinal or industrial substances, whether simple or compound, or obtained through the process of the science and art of chemistry, whether of organic or inorganic origin.

Subd. 9. Board or state board of pharmacy. The term

"board" or "state board of pharmacy" means the Minnesota state board of pharmacy.

Subd. 10. Director. The term "director" means the director of the Minnesota state board of pharmacy.

Subd. 11. Person. The term "person" means an individual, firm, partnership, company, corporation, trustee, association, agency, or other public or private entity.

Subd. 12. Wholesale. The term "wholesale" means and includes any sale for the purpose of resale.

Subd. 13. Commercial purposes. The phrase "commercial purposes" means the ordinary purposes of trade, agriculture, industry, and commerce, exclusive of the practices of medicine and pharmacy.

Subd. 14. Manufacturing. The term "manufacturing" except in the case of bulk compounding, prepackaging or extemporaneous compounding within a pharmacy, means and includes the production, quality control and standardization by mechanical, physical, chemical, or pharmaceutical means, packing, repacking, tableting, encapsulating, labeling, relabeling, filling or by any other process, of all drugs, medicines, chemicals, or poisons, without exception, for medicinal purposes.

Subd. 15. Pharmacist intern. The term "pharmacist intern" means (1) a natural person satisfactorily progressing toward the degree in pharmacy required for licensure, or (2) a graduate of the University of Minnesota college of pharmacy, or other pharmacy college approved by the board, who is registered by the state board of pharmacy for the purpose of obtaining practical experience as a requirement for licensure as a pharmacist, or (3) a qualified applicant awaiting examination for licensure.

Subd. 15a. Pharmacy technician. The term "pharmacy technician" means a person not licensed as a pharmacist or a pharmacist intern, who assists the pharmacist in the preparation and dispensing of medications by performing computer entry of prescription data and other manipulative tasks. A pharmacy technician shall not perform tasks specifically reserved to a licensed pharmacist or requiring professional judgment.

Subd. 16. Prescription. The term "prescription" means a signed written order, or an oral order reduced to writing, given by a practitioner licensed to prescribe drugs for patients in the course of the practitioner's practice, issued for an individual patient and containing the following: the date of issue, name and address of the patient, name and quantity of the drug prescribed, directions for use, and the name and address of the prescriber.

Subd. 17. Legend drug. "Legend drug" means a drug which is required by federal law to bear the following statement, "Caution: Federal law prohibits dispensing without prescription."

Subd. 18. Label. "Label" means a display of written, printed, or graphic matter upon the immediate container of any drug or medicine; and a requirement made by or under authority of Laws 1969, chapter 933 that any word, statement, or other information appearing on the label shall not be considered to be complied with unless such word, statement, or other information also appears on the outside container or wrapper, if any there be, of the retail package of such drug or medicine, or is easily legible through the outside container or wrapper.

Subd. 19. Package. "Package" means any container or wrapping in which any drug or medicine is enclosed for use in the delivery or display of that article to retail purchasers, but does not include:

(a) shipping containers or wrappings used solely for the transportation of any such article in bulk or in quantity to manufacturers, packers, processors, or wholesale or retail distributors;

(b) shipping containers or outer wrappings used by retailers to ship or deliver any such article to retail customers if such containers and wrappings bear no printed matter pertaining to any particular drug or medicine.

Subd. 20. Labeling. "Labeling" means all labels and other written, printed, or graphic matter (a) upon a drug or medicine or any of its containers or wrappers, or (b) accompanying such article.

Subd. 21. Federal act. "Federal act" means the federal Food, Drug, and Cosmetic Act, United States Code, title

21, section 301, et seq., as amended.

Subd. 22. Pharmacist in charge. "Pharmacist in charge" means a duly licensed pharmacist in the state of Minnesota who has been designated in accordance with the rules of the state board of pharmacy to assume professional responsibility for the operation of the pharmacy in compliance with the requirements and duties as established by the board in its rules.

Subd. 23. Practitioner. "Practitioner" means a licensed doctor of medicine, licensed doctor of osteopathy duly licensed to practice medicine, licensed doctor of dentistry, licensed doctor of optometry, licensed podiatrist, or licensed veterinarian. For purposes of sections 151.15, subdivision 4, 151.37, subdivision 2, paragraph (b), and 151.461, "practitioner" also means a physician assistant authorized to prescribe, dispense, and administer under chapter 147A, or an advanced practice nurse authorized to prescribe, dispense, and administer under section 148.235.

Subd. 24. Brand name. "Brand name" means the registered trademark name given to a drug product by its manufacturer, labeler or distributor.

Subd. 25. Generic name. "Generic name" means the established name or official name of a drug or drug product.

Subd. 26. Finished dosage form. "Finished dosage form" means that form of a drug which is or is intended to be dispensed or administered to the patient and requires no further manufacturing or processing other than packaging, reconstitution, or labeling.

Subd. 27. Practice of pharmacy. "Practice of pharmacy" means:

(1) interpretation and evaluation of prescription drug orders;

(2) compounding, labeling, and dispensing drugs and devices (except labeling by a manufacturer or packager of nonprescription drugs or commercially packaged legend drugs and devices);

(3) participation in clinical interpretations and

monitoring of drug therapy for assurance of safe and effective use of drugs;

(4) participation in drug and therapeutic device selection; drug administration for first dosage and medical emergencies; drug regimen reviews; and drug or drug-related research;

(5) participation in the practice of managing drug therapy and modifying drug therapy, according to section 151.21, subdivision 1, on a case-by-case basis according to a written protocol between the specific pharmacist and the individual dentist, optometrist, physician, podiatrist, or veterinarian who is responsible for the patient's care and authorized to independently prescribe drugs. Any significant changes in drug therapy must be reported by the pharmacist to the patient's medical record;

(6) participation in the storage of drugs and the maintenance of records;

(7) responsibility for participation in patient counseling on therapeutic values, content, hazards, and uses of drugs and devices; and

(8) offering or performing those acts, services, operations, or transactions necessary in the conduct, operation, management, and control of a pharmacy.

Subd. 28. Veterinary legend drug. "Veterinary legend drug" means a drug that is required by federal law to bear the following statement: "Caution: Federal law restricts this drug to use by or on the order of a licensed veterinarian."

Subd. 29. Legend medical gas. "Legend medical gas" means a liquid or gaseous substance used for medical purposes and that is required by federal law to bear the following statement: "Caution: Federal law prohibits dispensing without a prescription."

Subd. 30. Dispense. "Dispense or dispensing" means the preparation or delivery of a drug pursuant to a lawful order of a practitioner in a suitable container appropriately labeled for subsequent administration to or use by a patient or other individual entitled to receive the drug.

HIST: (5808-1) 1937 c 354 s 1; 1961 c 394 s 1; 1967 c 377 s

1,2; 1969 c 933 s 1-7; 1973 c 639 s 1,2; 1975 c 101 s 1; 1985 c 247 s 25; 1985 c 248 s 70; 1986 c 444; 1988 c 550 s 1-5; 1990 c 412 s 1,2; 1990 c 526 s 2; 1991 c 213 s 1; 1993 c 121 s 10; 1994 c 389 s 3; 1994 c 632 art 2 s 36; 1995 c 205 art 2 s 5; 1997 c 132 s 1; 1999 c 62 s 1

8710.6100 SCHOOL NURSE.

Subpart 1. Scope of practice. A school nurse is authorized to provide to prekindergarten through grade 12 students nursing services in a school setting.

Subp. 2. Requirements for first professional license. A candidate for licensure as a school nurse shall:

A. hold a baccalaureate degree in nursing from a regionally accredited college or university;

B. be currently registered in Minnesota to practice as a licensed registered nurse under the Board of Nursing; and

C. be currently registered in Minnesota as a public health nurse under the Board of Nursing.

Subp. 3. [Repealed, 25 SR 805]

Subp. 4. Professional license. A professional license shall be renewed according to the rules of the Board of Teaching governing professional licensure. Evidence of current Minnesota Board of Nursing registration as a licensed registered nurse is also required.

Subp. 5. Maintaining board of nursing registration. In order to retain licensure as a school nurse, current registration as a registered nurse and registration as a public health nurse must be maintained at all times. Lapse of this registration or licensure is grounds for revocation of licensure as a school nurse.

Persons without baccalaureate degrees who hold valid licenses as school nurses may continue to renew their licenses under subpart 4, provided that requirements for renewal are met. However, if a license is allowed to lapse, persons must meet the licensure requirements in subpart 2 in order to receive a current school nurse license.

Subp. 6. Effective date. The requirements in this part for licensure as a school nurse are effective on September 1, 2001, and thereafter.

STAT AUTH: MS s 122A.09; 122A.18
HIST: 23 SR 1928; 25 SR 805

STATE OF MINNESOTA
OFFICE OF THE ATTORNEY GENERAL

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February 14, 2000

Mr. Ralph Christofferson
Superintendent
Lake of the Woods ISD #390
P. O. Box 310 – Highway 11 West
Baudette, MN 56623

Re: Authority of School Nurses to Provide Non-Prescription Medications

Dear Mr. Christofferson:

This opinion is issued under Minn. Stat. § 8.07 (1998) in response to your question regarding the authority of school nurses to provide non-prescription medications to students upon a parent's request.

The duties and authority or nurses are set forth in the Minnesota Nurse Practice Act ("MNPA"). The MNPA defines the practice of professional nursing to include both "independent nursing functions" as well as "delegated medical functions." Minn. Stat. § 148.171(3) (1998). The MNPA makes no reference to any required procedures for nurses to follow regarding non-prescription medications. Nor does the MNPA address the dispensing of medications to students by school nurses.

A separate Minnesota statute, Minn. Stat. § 121A.22 (1998), sets the procedures that school personnel must follow in dispensing *prescription* medications to students. This statute states that school personnel must first receive a request from a student's parent to administer prescription medications. The statute further provides that the medication must be in a container with a label prepared by a pharmacist, must be administered in a manner consistent with instructions on the label, and must be administered by a school nurse, a public or private health related organization, or any other party where an agreement has been approved by the Commissioner of Children, Families and Learning. The above statute specifically exempts the administration of medication if it is purchased without a prescription, if it is for a student who is 18 years of age or older, if it is administered off school grounds, if it is used in connection with athletics or extra-curricular activities, or if it is administered by a public health agency. It is therefore clear that section 121A.22 provides no restrictions on school personnel administering non-prescription drugs.

The Minnesota Board of Nursing, however, has taken the position that a school nurse cannot administer over-the-counter medicine to a student at the parent's request, unless authorized by a doctor's order. In so doing, the Nursing Board states that under the Medical Practice Act ("MPA") a person is "practicing medicine" and needs to be licensed as such if the

person "administer[s] any drug or medicine for the use of another." Minn. Stat. § 147.081, subd. 2 (1998). The Nursing Board notes that the term "drug or medicine" is not defined in the MPA and therefore presumes that it includes both prescription and non-prescription medications. Accordingly, the Nursing Board concludes that providing non-prescription medications to another person is a "medical function" that must be delegated to a nurse by a physician. This office disagrees with the Nursing Board's legal analysis, at least as it applies to situations such as the one raised by your question.

The Board's position would lead to the conclusion that any parent who gives a child a Tylenol tablet, an antibiotic ointment, or even cough medicine,[1] would be engaged in the unauthorized practice of medicine and therefore would be guilty of a gross misdemeanor. Minn. Stat. § 147.081, subd. 2 (1998). Similarly, under the Nursing Board's interpretation, any caregiver or person responsible for the well being of a child, elderly parent, or anybody else would need a physician's order before providing any over-the-counter medications to that person. This interpretation would mean that millions of Minnesotans have engaged in an unauthorized practice of medicine if they have entered a drug store and bought over-the-counter medicines for use by a family member.

It is well settled under Minnesota law that statutes are to be construed to avoid a result that is "absurd, impossible of execution, or unreasonable." Minn. Stat. § 645.17(1).[2] Indeed, our laws must be construed in a "sensible" fashion. *See Thoresen v. Schmahl,* 24 N.W.2d 273, 277 (Minn. 1946). As indicated above, the conclusion that, for example, a parent cannot administer a non-prescription medication to his or her child, absent a physician's order, leads to an absurd and nonsensical result. Construing the MPA to require a physician's order for the administration of non-prescription medications in that and similar situations clearly produces the type of result that must be avoided in interpreting state laws.

Equally absurd and nonsensical is the proposition that a parent cannot request other persons temporarily responsible for the care of their children to provide the requested non-prescription medications. Examples of people that parents may entrust with the care of their

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[1] Under Minnesota law, a parent, guardian, or caretaker "who willfully deprives a child of necessary food, clothing, shelter, health care, or supervision" is guilty of "neglect or endangerment." Minn. Stat. § 609.378, subd. 1 (1998). *See also* Minn. Stat. § 626.556, subd. 2(c) (1998) (providing that parents, guardians, and other caregivers must "supply a child with necessary food, clothing, shelter, or medical care when reasonably able to do so").

[2] *See Wegener v. Commissioner of Revenue*, 505 N.W.2d 612, 617 (Minn. 1993) (stating that the courts are "obliged to reject a construction that leads to absurd results" and "it is necessary to look to the purpose for which the statute was enacted"); *see also Guderian v. Olmsted County*, 595 N.W.2d 540, 542 (Minn. Ct. App. 1999) (stating that when faced with an "absurd result, courts must look beyond a statute's literal meaning to ascertain and fulfill the legislature's intent").

children include other family members, daycare providers, babysitters, and school personnel. It would be unreasonable to suggest that a parent must obtain a physician's order each time a parent requests that any of these individuals provide non-prescription medications to a child. Moreover, in many cases it would be impractical or even logistically impossible for parents to obtain a physician's order before asking another person taking temporary care of a child to provide a non-prescription medication to the child. Accordingly, this interpretation of Minnesota law surely does not reflect legislative intent.

It should also be noted that the Nursing Board's interpretation relies on the definitions of "drug" and "medicine" in a separate statute that regulates pharmacists. The Pharmacy Act, set forth as Chapter 151 of Minnesota statutes, specifically states that the definitions utilized in that chapter apply "for the purposes of this chapter." Minn. Stat. § 151.01, subd. 1 (1998). The definitions in chapter 151 therefore do not apply to or control the use of the term "drugs" or "medicines" in other provisions of the Minnesota statutes. Further, other provisions of the Minnesota statutes contain specific regulations for "prescription" drugs, which establishes that prescription drugs are subject to more stringent regulation and control than non-prescription drugs. For instance, if non-prescription drugs were to be treated in the same manner as prescription drugs, there would be no need to have an exclusion for non-prescription drugs in the statute that sets forth procedures for school nurses to follow in dispensing prescription medications. Minn. Stat. § 121A.22 (1998). In other words, if non-prescription and prescription drugs both required a physician's order before a school nurse could dispense them, then it is difficult to understand why the Legislature excluded non-prescription drugs from the statute.

For the above reasons, this office concludes that school nurses do have the authority to provide over-the-counter medications to students upon a parent's request, even without a physician's order. It is important to note, however, that the school nurse has the ultimate authority and responsibility to reject a parent's request and to decline to administer an over-the-counter medication if the nurse believes that such medication is unnecessary, inappropriate, or could lead to patient harm. Further, school districts retain independent authority to implement policies that govern the administration of non-prescription drugs by school nurses. A school district, or an individual nurse, could choose to adopt a policy that requires a physician's order before a school nurse administers a non-prescription medication to a student.

I thank you for seeking our opinion regarding this issue.

Very truly yours,

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Chief Deputy and Solicitor General

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