

**NEBRASKA DEPARTMENT  
OF EDUCATION**

# **RULE 59**

**REGULATIONS FOR SCHOOL HEALTH AND SAFETY**

**TITLE 92, NEBRASKA ADMINISTRATIVE CODE,  
CHAPTER 59**

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**State of Nebraska  
Department of Education  
301 Centennial Mall South  
Lincoln, Nebraska 68509**



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001 General Provisions.

001.01 Statutory Authority. This Chapter is adopted pursuant to Sections 79-305, 79-318; Sections 79-1102 to 79-1104 and the Medication Aide Act in Sections 71-6718 through 71-6742 of the Revised Statutes of Nebraska (R.R.S.).

001.02 Medication Aide Act Requirements. Sections 003, 004 and 005 of this Chapter set forth the methods for competency assessment for school staff who provide medications and/or participate in observing and reporting for monitoring medications. In order for a school to assess the competency of staff members to provide medication as mentioned above, the staff members must be able to successfully pass a competency assessment no less than every three (3) years. Such competency assessments shall consist of a demonstration by the school staff member of each of the competencies listed in Sections 004.01A through 004.01N to the satisfaction of the health care professional designated by the school to conduct the assessment.

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

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

002 Definitions.

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

002.02 Administration of medication shall include, but is not limited to:

002.02A Providing medication for another person according to the five rights as defined in Section 002.07;

002.02B Recording medication provision; and,

002.02C Observing, monitoring, reporting, and otherwise taking appropriate actions regarding desired effects, side effects, interactions, and contraindications associated with the medication.

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

002.04 Caretaker shall mean a parent, foster parent, family member, friend, or legal guardian who provides care for an individual.

002.05 Direction and monitoring shall mean the acceptance of responsibility for observing and taking appropriate action regarding any desired effects, side effects, interactions, and contraindications associated with the medication by:

002.05A A recipient with capability and capacity to make an informed decision about medications;

002.05B Caretaker; or,

002.05C Licensed health care professional.

002.06 Approved Early Childhood Education Program shall mean any prekindergarten part-day or full-day program with a stated purpose of promoting social, emotional, intellectual, language, physical, and aesthetic development and learning for children from birth to kindergarten entrance age and family development and support established by a school board or an educational service unit and approved pursuant to Title 92, NAC, Chapter 11.

002.07 Five rights shall mean getting the right drug to the right recipient in the right dosage by the right route at the right time.

002.08 Health care professional shall mean an individual for whom administration of medication is included in his/her scope of practice, and is licensed by the Department of Health and Human Services.

002.09 Informed decision shall mean a decision made knowingly, based upon capacity to process information about choices and consequences, and made voluntarily.

002.10 Medication shall mean any prescription or nonprescription drug intended

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for treatment or prevention of disease or to affect body function in humans.

002.11 Medication Aide shall mean an individual who is listed on the medication aide registry operated by the Department of Health and Human Services Regulation and Licensure.

002.12 Minimum Competencies shall include:

002.12A Maintaining confidentiality;

002.12B Complying with a recipient's right to refuse to take medication;

002.12C Maintaining hygiene and current accepted standards for infection control;

002.12D Documenting accurately and completely;

002.12E Providing medications according to the five rights;

002.12F Having the ability to understand and follow instructions;

002.12G Practicing safety in application of medication procedures;

002.12H Complying with limitations and conditions under which a medication aide (and other unlicensed persons) may provide medications according to provisions contained in Title 172, Nebraska Administrative Code, Chapter 95; and,

002.12I Having an awareness of abuse and neglect reporting requirements and any other areas as shall be determined by Title 172, Nebraska Administrative Code, Chapter 95.

002.13 PRN shall mean an administration scheme in which a medication is not routine, is taken as needed and requires assessment for need and effectiveness.

002.14 Provision of medication shall mean the component of the administration of medication that includes giving or applying a dose of a medication to an individual and includes helping an individual in giving or applying such medication to himself or herself.

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

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002.16 Routine, with reference to medication, shall mean the frequency of administration, amount, strength, and method are specifically fixed.

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

002.18 School staff shall mean individuals who are employed by a school, some of whom may be required to undergo a competency assessment pursuant to this Chapter. School staff shall include substitute teachers and all other temporary employees. Licensed health care professionals who are employed by a school are exempt from the competency assessments contained in this Chapter.

003 Medication Aide Act - Provision of Medication.

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

003.02 A staff member of a school determined to be competent by a recipient with capability and capacity to make an informed decision about medications, or by a caretaker, or by the method set forth in Section 004.01 may provide routine medications by the following routes:

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

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

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

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

003.03 A staff member of a school determined to be competent by a recipient with capability and capacity to make an informed decision about medications, or by a

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caretaker, or by the method set forth in Section 004.01 may provide medications through additional activities listed in Sections 003.03A through 003.03C, if it has been determined by a licensed health care professional and placed in writing that these activities can be done safely for a specified recipient.

003.03A Provision of PRN medications;

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

003.03C Participation in observing and reporting for monitoring medications.

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

004 Medication Aide Act - Competency Assessment.

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

004.01A Recognize the recipient's right to personal privacy regarding health status, any diagnosis of illness, medication therapy and items of similar nature. Information of this nature should only be shared with appropriate interdisciplinary team members.

004.01B Recognize and honor the right of those recipients with capability and capacity to make informed decision about medications, to refuse medications and at no time force a recipient to take medications. In the case of a recipient who does not have the capability and capacity to make informed decisions about medication, recognize the requirement to seek advice and consultation from the caretaker or the licensed health care professional providing direction and monitoring regarding the procedures and persuasive methods to be used to encourage compliance with medication provision. Recognize that persuasive methods should not include anything that causes injury to the recipient.



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004.01C Follow currently acceptable standards in hygiene and infection control including hand washing.

004.01D Follow facility policies and procedures regarding storage and handling of medication, medication expiration date, disposal of medication and similar policies and procedures implemented in the facility to safeguard medication provision to recipients.

004.01E Recognize general unsafe conditions indicating that the medication should not be provided including change in consistency or color of the medication, unlabeled medication or illegible medication label, and those medications that have expired. Recognize that the unsafe condition(s) should be reported to the caretaker or licensed health care professional responsible for providing direction and monitoring.

004.01F Accurately document medication name, dose, route, and time administered, or refusal.

004.01G Provide the right medication, to the right person, at the right time, in the right dose, and by the right route.

004.01G1 As part of the assessment related to this “competency,” staff members must demonstrate an understanding of what specific identification measures are appropriate, including visual identification for situations when the school staff member is not familiar with the child’s identity. Schools are responsible for developing safeguards to ensure that students are not misidentified when receiving medication.

004.01H Provide medications according to the specialty needs of recipients based upon such things as age, swallowing ability, and ability to cooperate.

004.01I Recognize general conditions which may indicate an adverse reaction to medication such as rashes/hives, and recognize general changes in recipient condition which may indicate inability to receive medications. Examples include altered state of consciousness, inability to swallow medications, vomiting, inability to cooperate with receiving medications and other similar conditions. Recognize that all such conditions shall be reported to the caretaker or licensed health care professional responsible for providing direction and monitoring.

004.01J Safely provide medications for all ages of recipients according to the following routes: oral, topical, inhalation and instillation as referenced in Title 172, Nebraska Administrative Code, Chapter 95--Section 005.

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004.01K Recognize the limits and conditions by which a medication aide or other unlicensed person may provide medications.

004.01L Recognize the responsibility to report and the mechanisms for communicating such to the appropriate authorities if reasonable cause exists to believe that a vulnerable adult has been subjected to abuse or conditions or circumstances which would result in abuse in accordance with Neb. Rev. Stat. §28-372.

004.01M Recognize the responsibility to report and the mechanisms for communicating such to the appropriate authorities if reasonable cause exists to believe that a child has been subjected to abuse or neglect or observes a child being subjected to conditions or circumstances which reasonably would result in abuse or neglect in accordance with Neb. Rev. Stat. §28-711.

004.01N Recognize the recipient's property rights and physical boundaries.

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

005 Medication Aide Act - Documentation.

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

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

005.01B The date the competency assessment was conducted; and,

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

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

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

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005.03A Identification of the recipient;

005.03B Name of the medication given;

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

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

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

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

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

006.01 Emergency Protocol. All Accredited Schools, Approved Schools, and Approved Early Childhood Education Programs shall adopt and implement the Emergency Response to Life-Threatening Asthma or Systemic Allergic Reactions (Anaphylaxis) Protocol contained in Appendix A of this Chapter. In addition to adopting the protocol, Accredited Schools, Approved Schools and Early Childhood Education Programs shall procure and maintain the equipment and medication necessary to implement the protocol in each school building while school is in session in the case of any student and/or school staff emergency.

006.02 Physician Authorization. Accredited schools, Approved schools, and Approved Early Childhood Education Programs shall obtain a minimum of one signature of a physician licensed to practice medicine in Nebraska on the bottom of the protocol in Appendix A of this Chapter.

006.03 Effective Date. Accredited Schools, Approved Schools, and Approved Early Childhood Education Programs shall comply with the requirement to adopt the protocol and be prepared to begin implementing the protocol in emergency situations no later than the end of the 2003-2004 academic school year.

006.04 Parental and/or Guardian Objections to Protocol. The requirements of this Chapter do not preclude Accredited Schools, Approved Schools, and Approved Early Childhood Education Programs from complying with a request from a parent or guardian that a minor student not receive emergency treatment under the protocol. A school district's decision to withhold emergency treatment in such circumstances is not governed by this Chapter.

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007    Enforcement.

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

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

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

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

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

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

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

- Skin: warmth, itching, and/or tingling of underarms/groin, flushing, hives
- Abdominal: pain, nausea and vomiting, diarrhea
- Oral/Respiratory: sneezing, swelling of face (lips, mouth, tongue, throat), lump or tightness in the throat, hoarseness, difficulty inhaling, shortness of breath, decrease in peak flow meter reading, wheezing reaction
- Cardiovascular: headache, low blood pressure (shock), lightheadedness, fainting, loss of consciousness, rapid heart rate, ventricular fibrillation (no pulse)
- Mental status: apprehension, anxiety, restlessness, irritability

**EMERGENCY PROTOCOL:**

1. **CALL 911**
2. Summon school nurse if available. If not, summon designated trained, non-medical staff to implement emergency protocol
3. Check airway patency, breathing, respiratory rate, and pulse
4. Administer medications (EpiPen and albuterol) per standing order
5. Determine cause as quickly as possible
6. Monitor vital signs (pulse, respiration, etc.)
7. Contact parents immediately and physician as soon as possible
8. Any individual treated for symptoms with epinephrine at school will be transferred to medical facility

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

- Administer an IM EpiPen-Jr. for a child less than 50 pounds or an adult EpiPen for any individual over 50 pounds
- Follow with nebulized albuterol (premixed) while awaiting EMS. If not better, may repeat times two, back-to-back
- Administer CPR, if indicated

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