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February 9, 1989

MEMORANDUM

TO: Judy Maire
Health Services Supervisor
SPI

FROM: J. Tanya Barnett *T.B.*
Assistant Attorney General

RE: Administration of Medication

This is in response to your request for answers to the following questions:

1. Does RCW 28A.31.150 refer to both prescription and non-prescription (over the counter (OTC)) drugs? Frequently, students or parents will ask the school staff member designated to give medications in a school building, to administer such OTCs as antihistamines, tylenol, vitamins, etc.
2. Are inhaled prescription medications considered oral medications protected under RCW 28A.31.150? Children with asthma often require breathing treatments for an asthmatic attack that occurs at school.
3. Should school nurses train non-licensed school staff in the administration of epinephrine by injection for students with a history of anaphylaxis usually to bee stings? In many instances, the school nurse is not available in time to administer this life saving medication. In addition, emergency medical services

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(911) may not be able to respond in time. As you might expect, it is impossible in most instances to get a physician to train school staff in the administration of epinephrine as recommended in the attached chart.

Answer to Question 1:

Yes. RCW 28A.31.150 permits schools to provide for the administration of "oral medication of any nature" to students.

This statute was enacted in response to concerns that even giving a student an aspirin could be construed as the unlicensed practice of medicine. The statute makes no distinction between prescription and non-prescription medication, as reflected in Bulletin No. 7-82 Special Services (June 11, 1982):

We suggest that the terms "medication," "medications," and "medicine" used in the law and this memorandum mean all drugs, whether prescription or over-the-counter.

Although schools may administer medications obtained without a doctor's prescription, they may do so only on a doctor's order. In other words, simply because a school administers an OTC medication rather than a prescription medication does not relieve it from the obligation to get a "written, current, and unexpired request" from a doctor or dentist for the administration of that medication. RCW 28A.31.150(4). Failure to get a doctor's or dentist's request will exclude the school from the protection of RCW 28A.31.155(1), which states that schools and their employees "shall not be liable in any criminal action or for civil damages" if they comply substantially with RCW 28A.31.150.

Questions may arise whether a given substance, prescription or OTC, constitutes a "medication." According to Webster's Third New International Dictionary, a "medication" is a "substance used in therapy," or a "medicinal substance," tending to cure disease or relieve pain. Not all pills are "medication." Vitamins, for example, could be used to cure disease or relieve pain, or they might be used simply as nutritional supplements. They would be "medication" if taken for the former purpose, but not if for the latter.

Schools lack the necessary expertise to determine the purpose for which a particular substance is taken. Fortunately, the law requiring a doctor's or dentist's request appears to shift the responsibility for making that determination to the doctor or dentist. As long as the school has a current medical request for the administration of the substance, therefore, it

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can safely assume that the substance is being taken as a medication.

Answer to Question 2:

As long as they are inhaled through the mouth, yes.

"Oral" is not defined in RCW 28A.31.150. Unless the legislature expresses a contrary intent, words used in a statute are to be given their ordinary and common meaning. E.g., Featherstone v. Dessert, 173 Wash. 264, 268-69, 22 P.2d 1050 (1933). No contrary intent appears here; therefore, "oral" should be understood to mean "of, relating to, or belonging to the mouth." Webster's Third New International Dictionary at 1585.

Accordingly, an "oral" medication is one that is taken through the mouth. It need not be swallowed, though; it could be inhaled through the mouth. RCW 28A.31.50 does not, however, permit schools to administer medications that are inhaled through the nose.

Answer to Question 3:

Whether school nurses should train non-licensed school staff in the administration of epinephrine ultimately is a decision for the district to make. The discussion below concludes that they may do so. It also concludes that training staff to administer epinephrine is one method of discharging the school's duty to protect students with anaphylaxis from foreseeable dangers. However, since training staff to administer epinephrine creates other potential liability, and since the current state of the law does not clearly require schools to so train staff, the decision whether to train should be made by individual districts after consideration of the attendant risks.

Under most circumstances only licensed physicians may practice medicine in this state. RCW 18.71.021. The practice of medicine includes diagnosing, advising or prescribing for any human ailment, injury or condition; administering drugs or medicinal preparations to another person; and penetrating the tissues of human beings. RCW 18.71.011. Administering epinephrine to a student apparently suffering an anaphylactic reaction would certainly constitute the practice of medicine were it not for RCW 18.71.030(1), which states that furnishing "medical assistance in cases of emergency requiring immediate attention" is permissible without a license to practice medicine. Therefore, school staff may administer epinephrine in emergencies without running afoul of the practice of medicine statutes.