

I Mina Trentai Kuattro Na Liheslaturan
BILL STATUS

BILL NO.	SPONSOR	TITLE	DATE INTRODUCED	DATE REFERRED	CMTE REFERRED	PUBLIC HEARING DATE	DATE COMMITTEE REPORT FILED	FISCAL NOTES	NOTES
224-34 (COR)	Mary Camacho Torres	AN ACT TO ADD CHAPTER 9A TO TITLE 17, GUAM CODE ANNOTATED, RELATIVE TO CODIFYING STUDENT HEALTH SERVICES REQUIREMENTS APPLICABLE TO GUAM DEPARTMENT OF EDUCATION SCHOOLS, AUTHORIZING DELEGATION OF STUDENT HEALTH SERVICES TO SCHOOL EMPLOYEES OTHER THAN HEALTH CARE PRACTITIONERS UNDER SPECIFIC CIRCUMSTANCES, AND LIMITING LIABILITY OF PERSONNEL PROVIDING STUDENT HEALTH SERVICES AND ADMINISTERING EMERGENCY MEDICATION; TO BE KNOWN AS THE "STUDENT HEALTH SERVICES	12/27/17 1:42 p.m.						

I MINA'TRENTAI KUÁTTRO NA LIHESLATURAN GUÁHAN
2017 (FIRST) Regular Session

Bill No. 224 - 34 (COR)

Introduced by:

Mary Camacho Torres *MCT*

AN ACT TO ADD CHAPTER 9A TO TITLE 17, GUAM CODE ANNOTATED, RELATIVE TO CODIFYING STUDENT HEALTH SERVICES REQUIREMENTS APPLICABLE TO GUAM DEPARTMENT OF EDUCATION SCHOOLS, AUTHORIZING DELEGATION OF STUDENT HEALTH SERVICES TO SCHOOL EMPLOYEES OTHER THAN HEALTH CARE PRACTITIONERS UNDER SPECIFIC CIRCUMSTANCES, AND LIMITING LIABILITY OF PERSONNEL PROVIDING STUDENT HEALTH SERVICES AND ADMINISTERING EMERGENCY MEDICATION; TO BE KNOWN AS THE “STUDENT HEALTH SERVICES ACT.”

2017 DEC 27 PM 1:42 C.S.

1 **BE IT ENACTED BY THE PEOPLE OF GUAM:**

2 **Section 1. Legislative Findings.** *I Liheslaturan Guáhan* finds that many
3 students with chronic health conditions or illnesses attend Guam’s schools and
4 require medications that affect attendance or program participation. Guam
5 Department of Education statistics show that more than one thousand seven hundred
6 (1,700) students have asthma, more than one thousand two hundred (1,200) students
7 have severe allergies, more than two hundred (200) students have a seizure disorder,
8 and more than fifty (50) students have diabetes.

9 Asthma is a chronic condition requiring lifetime, ongoing medical
10 intervention. According to the Centers for Disease Control and Prevention, asthma
11 is a common cause of missed school days. Immediate and correct use of inhaled
12 bronchodilators and auto-injectable epinephrine is necessary to avoid serious
13 respiratory complications and improve health care outcomes.

1 An increasing number of students have life-threatening allergies.
2 Anaphylaxis, or anaphylactic shock, is a systemic allergic reaction that can kill
3 within minutes. According to the American Academy of Allergy, Asthma, and
4 Immunology, people who have experienced symptoms of anaphylaxis previously are
5 at risk for subsequent reactions and should carry an epinephrine auto-injector with
6 them at all times, if prescribed. Anaphylaxis requires prompt medical intervention
7 with an injection of epinephrine. Anaphylaxis occurs in some asthma patients.

8 Epilepsy is a chronic neurological condition characterized by recurrent
9 seizures. It is also called a seizure disorder. The severity of epilepsy and the type of
10 seizure vary from person to person. Although there is no cure for epilepsy,
11 antiepileptic drugs successfully prevent seizures in the majority of people who take
12 them regularly and as prescribed. It has been estimated that seizures can be
13 completely controlled in fifty percent (50%) of individuals with epilepsy for
14 substantial periods of time, while another twenty percent (20%) experience a
15 significant reduction in the number of seizures.

16 Diabetes is a chronic disease in which the body does not make or properly use
17 insulin, a hormone needed to convert sugar, starches, and other food into energy.
18 Neither insulin nor other medications are cures for diabetes but are needed to help
19 control the disease. If not treated appropriately, diabetes can lead to serious health
20 problems. However, these problems can be greatly reduced or delayed by keeping
21 blood glucose levels near normal. Monitoring blood glucose levels and taking
22 medications when necessary are two important factors involved in the day-to-day
23 management of diabetes.

24 In the case of allergies and anaphylaxis, asthma, seizure disorders and
25 diabetes, timely administration of medication can save a student's life. Due to the
26 large number of students who require medication, whether in the classroom, during
27 afterschool activities, or traveling to and from school functions, school nurses

1 sometimes need assistance to provide health services and administer medications.
2 Currently, school nurses are not authorized to delegate these tasks to nonmedical
3 personnel. Delegation is particularly vital in time-sensitive emergency situations
4 where the nurse may not be capable of responding within initial moments that matter
5 the most. While teachers and other school employees have long wanted to help, legal
6 uncertainty has prevented them from doing so on Guam. This situation places our
7 students at risk.

8 **Section 2.** A new Chapter 9A is added to Title 17, Guam Code Annotated:

9 **“CHAPTER 9A**

10 **STUDENT HEALTH SERVICES ACT**

11 **ARTICLE 1**

12 **GENERAL PROVISIONS**

13 § 9A101. Citation.

14 § 9A102. General Policy.

15 § 9A103. Definitions.

16 **ARTICLE 2**

17 **STUDENT HEALTH SERVICES**

18 § 9A201. Student Health Services.

19 § 9A202. Provision of Health Services, Delegation.

20 **ARTICLE 3**

21 **ADMINISTRATION OF MEDICATIONS**

22 § 9A301. Student Self-Administration and Possession of Medications.

23 § 9A302. Administration of Medications by School Employees.

24 **ARTICLE 4**

25 **SPECIFIC CONDITIONS**

26 § 9A401. Life-threatening Allergies.

27 **ARTICLE 5**

1 RIGHTS OF STUDENT AND PARENTS

2 § 9A501. Equal Access.

3 § 9A502. Prohibition on Parental Requirements.

4 **ARTICLE 1**

5 **GENERAL CONDITIONS**

6 **§ 9A101. Citation.**

7 This Chapter may be cited as the *Student Health Services Act*.

8 **§ 9A102. General Policy.**

9 *I Liheslaturan Guåhan* declares that students with serious health conditions
10 should not be prevented from receiving critical medications in the most expedient
11 and safe manner possible. This Chapter shall be construed to facilitate unobstructed
12 access to health services and administration of medicines, including during
13 emergency events, for elementary and secondary school students in Guam
14 Department of Education schools.

15 **§ 9A103. Definitions.**

16 As used in this Chapter:

17 (a) *Anaphylaxis* means an allergic reaction resulting from sensitization
18 following prior contact with an antigen which can be a life-threatening emergency.
19 Anaphylaxis may be triggered by, among other agents, foods, drugs, injections,
20 insect stings, and physical activity.

21 (b) *Condition requiring prescribed medication* includes any serious medical
22 condition that requires prescribed medications, such as asthma, allergies placing the
23 student at risk of anaphylaxis, a seizure disorder or diabetes mellitus.

24 (c) *Health care practitioner* means a physician or other health care provider
25 who has prescriptive authority; and

1 (d) *Health services* means the provision of direct health care, including the
2 administration of medication; the operation, maintenance, or health care through the
3 use of medical equipment; or the administration of clinical procedures.

4 (e) *Medications* means all medicines individually prescribed by a health care
5 practitioner that pertain to asthma or are used to treat anaphylaxis, including but not
6 limited to inhaled bronchodilators and auto-injectable epinephrine; or that pertain to
7 diabetes, including but not limited to Glucagon or insulin; or that pertain to a seizure
8 disorder.

9 (f) *School employee* means an individual working in association with a Guam
10 Department of Education school, not to include employees of charter schools,
11 parochial schools, or Department of Defense schools.

12 (g) *Self-administration* means the student's use of his or her prescribed
13 medication, pursuant to prescription or written direction from the health care
14 practitioner.

15 (h) *Superintendent* means the superintendent of the Guam Department of
16 Education.

17 ARTICLE 2

18 STUDENT HEALTH SERVICES

19 § 9A201. Student Health Services.

20 (a) The Guam Department of Education shall provide leadership and
21 assistance to schools relating to student health services. The Department, working
22 in cooperation with the Department of Public Health and Social Services, shall
23 provide, contract for services, or identify resources to improve student health
24 services, including but not limited to the following:

25 (1) Standardized protocols and guidelines for health procedures to be
26 performed by health care practitioners and school personnel. The protocols
27 and guidelines shall include but not be limited to the following:

1 (A) The delegation of nursing functions consistent with
2 administrative rules and regulations promulgated by the Guam Board
3 of Nurse Examiners to the extent that such rules and regulations are not
4 inconsistent with this Chapter;

5 (B) Training of designated nonmedical school personnel; and

6 (C) Appropriate documentation and recordkeeping including, but
7 not limited to, notification to school administrators and parents or
8 guardians of the provision of health services by a school employee,
9 including certification of medical necessity for health services signed
10 by a health care practitioner, and informed consent for the provision of
11 health services by a parent or guardian.

12 A copy of the protocols and guidelines shall be made available to every
13 Department of Education school and shall be maintained by each school in a
14 publicly available place;

15 (2) Consultation, technical assistance, and development of quality
16 improvement measures for the Superintendent and individual Guam
17 Department of Education schools;

18 (3) Facilitation of data collection and reporting of school health
19 services; and

20 (4) Information and resources that relate to the provision of school
21 health services.

22 (b) The Guam Department of Education shall establish or designate a position
23 to assist in carrying out the responsibilities required under subsection (a) of this
24 Section. The position may be established or designated using existing personnel
25 resources, or by contract, with an individual who:

1 (1) Holds, at a minimum, a bachelor's degree in nursing with a master's
2 degree in nursing or a related field from an accredited postsecondary
3 institution; and

4 (2) Is a registered nurse licensed under the provisions of Chapter 12,
5 Title 10, Guam Code Annotated.

6 **§ 9A202. Provision of Health Services, Delegation.**

7 (a) Health services shall be provided in a school setting by:

8 (1) A physician who is licensed under the provisions of Chapter 12,
9 Title 10, Guam Code Annotated;

10 (2) An advanced practice registered nurse, registered nurse, or licensed
11 practical nurse who is licensed under the provisions of Chapter 12, Title 10,
12 Guam Code Annotated;

13 (3) A non-licensed health technician that has the administration of
14 health services in his or her contract or job description as a job responsibility
15 and who is delegated responsibility to perform the health service by a
16 physician, advanced practice registered nurse, or registered nurse and has
17 been trained and approved in writing by the delegating physician or delegating
18 nurse for delegable health services; or

19 (4) A school employee who is delegated responsibility to perform the
20 health service by a physician, advanced practice registered nurse, or registered
21 nurse; and

22 (A) Has been trained by the delegating physician or delegating
23 nurse for the specific health service, if that health service is one that
24 could be delegated by the physician or nurse within his or her scope of
25 practice; and

26 (B) Has been approved in writing by the delegating physician or
27 delegating nurse. The approval shall state that the school employee

1 consents to perform the health service when the employee does not have
2 the administration of health services in his or her contract or job
3 description as a job responsibility, possesses sufficient training and
4 skills, and has demonstrated competency to safely and effectively
5 perform the health service. The school employee shall acknowledge
6 receipt of training by signing the approval form. A copy of the approval
7 form shall be maintained in the corresponding student's record and the
8 personnel file of the school employee. A delegation to a school
9 employee under this paragraph shall be valid only for the current school
10 year. Nothing in this Section shall be construed to require a school
11 employee to consent to provide health services when the employee does
12 not have the administration of health services in his or her contract or
13 job description as a job responsibility.

14 (b) If at any time no school employee meeting the qualifications of subsection
15 (a) of this Section is available, the Superintendent shall make any necessary
16 arrangement for the provision of the health services in order to prevent a loss of a
17 health service from affecting students' attendance or program participation.

18 (c) Limitation of Liability. A school employee who has been properly
19 delegated responsibility for performing a health service under this Section shall act
20 as an agent of the school and be granted liability protection under the Federal Paul
21 P. Coverdell Teacher Liability Protection Act of 2001, Pub. L. No. 107-110, unless
22 the claimant establishes by clear and convincing evidence that harm was proximately
23 caused by an act or omission of the school employee that constitutes negligence,
24 willful or criminal misconduct, or a conscious, flagrant indifference to the rights and
25 safety of the individual harmed.

26 (d) Nothing in this Section shall be construed to deny a student his or her right
27 to attend a Guam Department of Education school and to receive public school

1 services, or to deny, prohibit, or limit the administration of emergency first aid or
2 emergency procedures.

3 **ARTICLE 3**

4 **ADMINISTRATION OF MEDICATIONS**

5 **§ 9A301. Student Self-Administration and Possession of Medications.**

6 (a) The Superintendent shall permit the self-administration of medications by
7 a student with a condition requiring prescribed medication if the student's parent or
8 guardian:

9 (1) Provides written authorization for the student to self-administer
10 prescribed medication to the school; and

11 (2) Provides a written statement from the student's health care
12 practitioner that the student has a condition requiring prescribed medication
13 and has been instructed in self-administration of the student's prescribed
14 medications to treat the condition. The statement shall also contain the
15 following information:

16 (A) The name and purpose of the medication;

17 (B) The prescribed dosage;

18 (C) The route of administration;

19 (D) The frequency or precise times in which the medication may
20 be administered;

21 (E) The circumstances under which the medication may be
22 administered; and

23 (F) The length of time for which the medications are prescribed.

24 (b) Recordkeeping. The statements required in subsection (a) of this Section
25 shall be kept on file in the office of the school nurse or school administrator.

26 (c) Limitation of Liability.

1 (1) Disclosure. The Superintendent shall inform the parent or guardian
2 of the student that the school and its employees and agents shall incur no
3 liability except as provided in this Chapter as a result of any injury sustained
4 by the student from the self-administration of his or her prescribed
5 medications, unless the injury is the result of negligence, willful or criminal
6 misconduct, or a conscious, flagrant indifference to the rights and safety of
7 the individual harmed on behalf of the school or its employees or agents.

8 (2) Acknowledgment. The parent or guardian of the student shall sign
9 a statement acknowledging that the school shall incur no liability except as
10 provided in this Chapter and the parent or guardian shall indemnify and hold
11 harmless the school and its employees and agents against any claims relating
12 to the self-administration of prescribed medications, unless the injury is the
13 result of negligence, willful or criminal misconduct, or a conscious, flagrant
14 indifference to the rights and safety of the individual harmed on behalf of the
15 school or its employees or agents.

16 (d) Upon request by the parent or student, the student shall have access to a
17 private area for self-administering prescribed medication.

18 (e) Renewal of Permission. The permission for self-administration of
19 medications shall be effective for the school year in which it is granted and shall be
20 renewed each following school year upon fulfilling the requirements of subsections
21 (a) to (c) of this Section.

22 (f) Possession of Medication. Upon fulfilling the requirements of subsections
23 (a) to (c) of this Section, a student with a condition requiring prescribed medication
24 may possess and use prescribed medications when at school, during school-
25 sponsored activities or before and after normal school activities, including school-
26 sponsored child care or afterschool programs and travel to and from any school-
27 sponsored activity.

1 (g) Diabetes Care Tasks. Upon fulfilling the requirements of subsections (a)
2 to (c) of this Section, a student with diabetes shall be permitted to perform blood
3 glucose checks, administer insulin through the insulin delivery system the student
4 uses, treat hypoglycemia, and otherwise attend to the care and management of his or
5 her diabetes when at school, during school-sponsored activities or before and after
6 normal school activities including school-sponsored child care or afterschool
7 programs. A student shall be permitted to possess on his or her person at all times
8 necessary supplies and equipment to perform these monitoring and treatment
9 functions. Upon request by the parent or student, the student shall have access to a
10 private area for performing diabetes care tasks. Any training of a school employee
11 in diabetes care tasks shall be fully consistent with training programs and guidelines
12 developed by the American Diabetes Association.

13 **§ 9A302. Administration of Medications by School Employees.**

14 (a) The Superintendent shall have at least one (1) school employee at each
15 school who has met the requirements of § 9A202 on duty during the entire school
16 day, including any after school programs, to administer or assist with the
17 administration of the following medication:

18 (1) Inhaled bronchodilator to a student with asthma as noted in the
19 health care practitioner's written statement under subsection (c)(2) of this
20 Section;

21 (2) Epinephrine auto-injector to a student with asthma or a documented
22 life-threatening allergy who is experiencing anaphylaxis or other conditions
23 noted in the health care practitioner's written statement under subsection
24 (c)(2) of this Section;

25 (3) Glucagon subcutaneously to a student with diabetes who is
26 experiencing hypoglycemia or other conditions noted in the health care
27 practitioner's written statement under subsection (c)(2) of this Section;

1 (4) Insulin subcutaneously to a student, through the insulin delivery
2 method used by the student and at the times and under the conditions noted in
3 the health care practitioner's written statement under subsection (c)(2) of this
4 Section; and

5 (5) A seizure rescue medication approved by the United States Food
6 and Drug Administration and any successor agency to a student with a seizure
7 disorder who is experiencing a seizure or other condition noted in the health
8 care practitioner's written statement under subsection (c)(2) of this Section.

9 (b) Training. For those assigned the duties under subsection (a) of this Section,
10 training provided under § 9A202(a)(3) or (4) shall include instruction in
11 administering the medications described under subsection (a) of this Section as well
12 as recognition of the signs and symptoms of the conditions associated with those
13 medications and the appropriate steps to be taken to respond to the symptoms of
14 asthma, anaphylaxis, hypoglycemia and hyperglycemia, and seizures.

15 (c) Required Written Statements. Prior to administering or assisting with the
16 administration of any of the medications listed under subsection (a) of this Section
17 to a student by a school employee qualified under § 9A(a), the student's parent or
18 guardian shall:

19 (1) Provide the school with a written authorization for the school
20 employee to administer the medication at school;

21 (2) Provide a written statement from the student's health care
22 practitioner that the student has a condition requiring prescribed medication.

23 The statement shall also contain the following information:

24 (A) The name and purpose of the medication;

25 (B) The prescribed dosage;

26 (C) The route of administration;

1 (D) The frequency or precise times in which the medication may
2 be administered;

3 (E) The circumstances under which the medication may be
4 administered; and

5 (F) The length of time for which the medications are prescribed.

6 (3) Provide the prescribed medication to the school in its unopened,
7 sealed package with the label affixed by the dispensing pharmacy intact.

8 (d) The statements required in subsection (c) of this Section shall be kept on
9 file in the office of the school nurse or school administrator.

10 (e) Limitation on Liability.

11 (1) Disclosure. The Superintendent shall inform the parent or guardian
12 of the student that the school and its employees and agents shall incur no
13 liability except as provided in this Chapter as a result of any injury sustained
14 by the student resulting from acts or omissions related to the administration
15 or the assistance in administration of any medication listed under subsection
16 (a) of this Section or from any reaction to any medication listed under
17 subsection (a) of this Section that a parent or guardian has authorized the
18 school to administer to a student, unless the injury is the result of negligence,
19 willful or criminal misconduct, or a conscious, flagrant indifference to the
20 rights and safety of the individual harmed on behalf of the school or its
21 employees or agents.

22 (2) Acknowledgment. The parent or guardian of the student shall sign
23 a written statement acknowledging that the school shall incur no liability
24 except as provided in this Chapter, and the parent or guardian shall hold
25 harmless the school and its employees and agents against any claims made for
26 any injury sustained by the student resulting from acts or omissions related to
27 the administration or the assistance in administration of any medication listed

1 under subsection (a) of this Section or from any reaction to any medication
2 listed under subsection (a) of this Section that a parent or guardian has
3 authorized the school to administer to a student, unless the injury is the result
4 of negligence, willful or criminal misconduct, or a conscious, flagrant
5 indifference to the rights and safety of the individual harmed on behalf of the
6 school or its employees or agents.

7 (f) Renewal. Permission for the administration of any of the medications listed
8 under subsection (a) of this Section shall be effective for the school year in which it
9 is granted and shall be renewed each following school year.

10 (g) Expiration Dates. The school nurse or school administrator shall check the
11 expiration date monthly for each medication listed under subsection (a) of this
12 Section that is in the possession of the school. At least one (1) month prior to the
13 expiration date of each medication, the school nurse or school administrator shall
14 inform the parent or guardian of the expiration date.

15 (h) The requirements of subsections (a) to (g) of this Section shall apply only
16 to a school that has, only to the extent that it has, a student enrolled who has a
17 condition requiring prescribed medication listed under subsection (a) of this Section
18 prescribed by the student's health care practitioner.

19 (i) Nothing in this Section shall be construed to require a school employee to
20 consent to administer medications to a student if the employee does not otherwise
21 consent to provide the health service under § 9A202(a).

22 (j) Notwithstanding any other provision of the law to the contrary:

23 (1) The administration of the medications listed under subsection (a) of
24 this Section by school employees shall not constitute the practice of nursing
25 and shall be exempt from all applicable statutory and regulatory provisions
26 that restrict the activities that may be delegated to or performed by a person
27 who is not a licensed health care practitioner; and

1 (2) A licensed health care practitioner may provide training to or
2 supervise school employees in the administration of the medications listed
3 under subsection (a) of this Section.

4 **ARTICLE 4**

5 **SPECIFIC CONDITIONS**

6 **§ 9A401. Life-threatening Allergies.**

7 (a) A student who has a documented life-threatening allergy shall have:

8 (1) An epinephrine auto-injector provided by his or her parent or
9 guardian in his or her possession or in the possession of the school nurse,
10 school administrator, or his or her designee in all school environments that the
11 student may be in, including the classroom, the cafeteria, the school bus and
12 on field trips; and

13 (2) A written individual health care plan in place for the prevention and
14 proactive management for the student in all school environments that the
15 student may be in, including the classroom, the cafeteria, the school bus, and
16 on field trips. The individual health care plan required under this paragraph
17 may be incorporated in the student's individualized education program
18 required under Pub. L. No. 94-142 or the student's 504 plan required under
19 Pub. L. No. 93- 112.

20 (b) Each school is encouraged to keep an epinephrine auto-injector in a
21 minimum of two (2) locations in the school, including but not limited to the school
22 office and the school cafeteria, so that epinephrine may be administered to any
23 student believed to be having a life-threatening allergic or anaphylactic reaction.
24 Schools electing to keep epinephrine auto-injectors shall maintain them in a secure,
25 accessible, but unlocked location. The provisions of this subsection shall apply to
26 the extent that the epinephrine auto-injectors are donated to a school or a school has
27 sufficient funding to purchase the epinephrine auto-injectors.

1 (c) Policies and Procedures. Each school electing to keep epinephrine auto-
2 injectors shall implement policies and procedures for managing a student's life-
3 threatening allergic or anaphylactic reaction developed and approved by the Guam
4 Education Board.

5 **ARTICLE 5**

6 **RIGHTS OF STUDENT AND PARENTS**

7 **§ 9A501. Right of Equal Access.**

8 The Superintendent shall permit a student who has a condition requiring
9 prescribed medication to attend the same school the student would attend if the
10 student did not have the condition. Such a student may only be transferred to a
11 different school based on health care needs if the individualized education program
12 team, the Section 504 team, or, if appropriate, the student's health services team,
13 makes the determination that the student's health condition requires that the
14 student's care be provided by a licensed health care practitioner at a different school.
15 For the purpose of this determination, the teams shall include the parent or guardian.
16 The parent or guardian may invite the student's treating physician to the team
17 meeting and the team shall consider the physician's input, whether in person or in
18 written form, when making this determination. This determination shall be based on
19 individualized factors related to the student's health conditions. The Superintendent
20 shall not prohibit a student who has a condition requiring prescribed medication from
21 attending any school on the sole basis that:

22 (1) The student has a condition requiring prescribed medication;

23 (2) The school does not have a full-time school nurse; or

24 (3) The school does not have school employees who are trained in
25 accordance with § 9A202 and assigned to provide care.

26 **§ 9A502. Prohibition on Parental Requirements.**

1 Parents or guardians of a student who has a condition requiring prescribed
2 medication shall not be required or pressured to provide care for the student during
3 regular school hours or during school-related activities in which the student is a
4 participant. For the purposes of this subsection, a participant is not a student who
5 merely observes the activity.