




TO: P-12 Education Committee

FROM: James N. Baldwin 

SUBJECT: Proposed Amendment to Section 136.7(f) of the Regulations of the Commissioner of Education Relating to Glucagon Administration in Schools by Trained Unlicensed School Personnel

DATE: December 2, 2021

AUTHORIZATION(S):



SUMMARY

Issue for Decision

Should the Board of Regents adopt the proposed amendment of Section 136.7(f) of the Regulations of the Commissioner of Education relating to Glucagon administration in schools by trained unlicensed school personnel?

Reason(s) for Consideration

Required by State statute (Chapter 339 of the Laws of 2021).

Proposed Handling

The proposed amendment is presented to the P-12 Education Committee for discussion and to the Full Board for adoption as an emergency rule at its December 2021 meeting. A copy of the proposed rule is included (Attachment A) and a statement of facts and circumstances justifying emergency action is included (Attachment B).

Procedural History

A Notice of Emergency Adoption and Proposed Rule Making will be published in the State Register on December 29, 2021 for a 60-day public comment period. Supporting materials are available upon request to the Secretary of the Board of Regents.

Background Information

Glucagon is a prescription medication used to treat severe hypoglycemia (low blood sugar) and is prescribed to individuals with diabetes who take insulin. Severe hypoglycemia can be life threatening and must be treated immediately. In 2015, Education Law §921 was enacted to increase access to students in need of glucagon by permitting school districts, boards of cooperative educational services (BOCES), and nonpublic schools to allow trained unlicensed school personnel to administer injections of prescribed glucagon to students with written parent/guardian consent, in emergency situations where an appropriate licensed health professional is not available.

New formulations of prescribed glucagon are now available that are not injected. To capture these methods, Chapter 339 of the Laws of 2021 (Chapter 339) amended Education Law §921 and replaced the word “inject” with “administer,” permitting schools to train unlicensed school personnel to administer these new formulations of prescribed glucagon.

Section 136.7(f)(2) of the Commissioner’s regulations outlines the requirements for training unlicensed school personnel to administer prescribed glucagon. To implement Chapter 339, the proposed rule amends section 136.7(f) of the Commissioner’s regulations to provide that a component of the glucagon training shall include the steps for mixing, *if necessary*, prescribed glucagon. Additionally, such section is amended to reflect the current practice of utilizing a Department-approved course on glucagon administration, for an overview of diabetes and hypoglycemia, rather than a Department of Health approved webinar and to clarify that such glucagon training includes observation of the trainee using a manufacturer’s glucagon training device or demonstration device by the authorized licensed health professional providing such training.

Related Regents Items

September 2015: [Proposed Addition of Section 136.7 of the Regulations of the Commissioner Relating Self-Administration of Certain Medications by Students](https://www.regents.nysed.gov/common/regents/files/meetings/Sep%202015/915brca6.pdf)
(<https://www.regents.nysed.gov/common/regents/files/meetings/Sep%202015/915brca6.pdf>)

Recommendation

It is recommended that the Board of Regents take the following action:

VOTED: That section 136.7 of the Regulations of the Commissioner of Education be amended, as submitted, effective December 14, 2021, as an emergency action upon a finding by the Board of Regents that such action is necessary for the preservation of public health and safety to immediately conform the Commissioner’s regulations to Chapter 339 of the Laws of 2021, so that unlicensed school personnel may be trained to administer new formulations of glucagon which do not require injection.

Timetable for Implementation

If adopted as an emergency rule at the December 13, 2021 Regents meeting, the emergency rule will become effective December 14, 2021. It is anticipated that the proposed amendment will be presented for permanent adoption at the April 2022 Regents meeting, after publication of the proposed amendment in the State Register and expiration of the 60-day public comment period required under the State Administrative Procedure Act. Because the emergency action will expire before the April 2022 Regents meeting, it is anticipated that an additional emergency action will be presented for adoption at the March 2022 meeting. If adopted at the April 2022 meeting, the proposed amendment will become effective on April 27, 2022.

AMENDMENT OF THE REGULATIONS OF THE COMMISSIONER OF EDUCATION

Pursuant to Education Law sections 207, 305 and 921 and Chapter 339 of the Laws of 2021

Paragraph (2) of subdivision (f) of section 136.7 of the Regulations of the Commissioner of Education is amended to read as follows:

(2) Training of Unlicensed Personnel to Administer Prescribed Glucagon. Unlicensed school personnel employed by school districts, boards of cooperative education services, and non-public schools must complete an annual course of training regarding the administration of prescribed glucagon to a student. Such training must be provided and documented by an authorized licensed health professional as described in section (d) of this section. Components of such training shall include, but not be limited to:

(i) overview of diabetes and hypoglycemia utilizing [the Department of Health approved webinar] a department approved course on glucagon administration;

(ii) review of the student's emergency [action] care plan, if available, including treatment of mild or moderate hypoglycemia;

(iii) signs and symptoms of a severe hypoglycemia warranting administration of glucagon;

(iv) how to access emergency services per school policy;

(v) the steps for mixing, if necessary, and administering the prescribed glucagon;

(vi) observation of the trainee using a manufacturer's glucagon training device or demonstration device;

(vii) steps for providing ongoing care while waiting for emergency services;

(viii) notification of appropriate school personnel; and

(ix) methods of safely storing, handling, and disposing of glucagon and used needles and syringes.

STATEMENT OF FACTS AND CIRCUMSTANCES WHICH NECESSITATE
EMERGENCY ACTON

Glucagon is a prescription medication used to treat severe hypoglycemia (low blood sugar) and is prescribed to individuals with diabetes who take insulin. Severe hypoglycemia can be life threatening and must be treated immediately. In 2015, Education Law §921 was enacted to increase access to students in need of glucagon by permitting school districts, boards of cooperative educational services (BOCES), and nonpublic schools to allow trained unlicensed school personnel to administer injections of prescribed glucagon to students with written parent/guardian consent, in emergency situations where an appropriate licensed health professional is not available.

New formulations of prescribed glucagon are now available that are not injected. To capture these methods, Chapter 339 of the Laws of 2021 (Chapter 339) amended Education Law §921 and replaced the word “inject” with “administer,” permitting schools to train unlicensed school personnel to administer these new formulations of prescribed glucagon which do not required injection as the route to administration of the medication.

Section 136.7(f)(2) of the Commissioner’s regulations outlines the requirements for training unlicensed school personnel to administer prescribed glucagon. To implement Chapter 339, the proposed rule amends section 136.7(f) of the Commissioner’s regulations to provide that a component of the glucagon training shall include the steps for mixing, if necessary, prescribed glucagon. Additionally, such section is amended to reflect the current practice of utilizing a Department-approved course on glucagon administration, for an overview of diabetes and hypoglycemia,

rather than a Department of Health approved webinar and to clarify that such glucagon training includes observation of the trainee using a manufacturer's glucagon training device or demonstration device.

Since the Board of Regents meets at fixed intervals, the earliest the proposed amendment could be adopted by regular (nonemergency) action after expiration of the 60-day public comment period provided for in the State Administrative Procedure Act (SAPA) sections 201(1) and (5) would be the April 2022 Regents meeting. Furthermore, pursuant to SAPA §203(1), the earlier effective date of the proposed rule, if adopted at the April 2022 meeting, would be April 27, 2022, the date the Notice of Adoption would be published in the State Register.

Therefore, emergency action is necessary at the December 2021 meeting for the preservation of public health and safety to immediately conform the Commissioner's regulations to Chapter 339 of the Laws of 2021 so that unlicensed school personnel may be trained to administer new formulations of glucagon which do not require injection.

It is anticipated that the proposed rule will be presented to the Board of Regents for adoption as a permanent rule at the April 2022 meeting, which is the first scheduled meeting after expiration of the 60-day public comment period mandated by SAPA for state agency rule making. However, since the emergency action will expire before the April 2022 Regents meeting, it is anticipated that an additional emergency action will be presented for adoption at the March 2022 Regents meeting.