S T A T E O F N E W Y O R K

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I N S E N A T E

June 5, 2014

Introduced by Sens. FLANAGAN, MARCELLINO, RANZENHOFER -- read twice and ordered printed, and when printed to be committed to the Committee on Education

AN ACT to amend the education law, in relation to health services in schools

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Section 916 of the education law, as amended by chapter 524 of the laws of 2006, is amended to read as follows:

S 916. Pupils [afflicted] with asthma OR ANOTHER RESPIRATORY DISEASE REQUIRING RESCUE INHALER TREATMENT. 1. The board of education or trustees of each school district and board of cooperative educational services shall allow pupils who have been diagnosed by a physician or other duly authorized health care provider with [a severe] AN asthmatic condition OR ANOTHER RESPIRATORY DISEASE to carry and use a prescribed inhaler AND SELF-ADMINISTER INHALED RESCUE MEDICATIONS TO ALLEVIATE RESPIRATORY SYMPTOMS OR TO PREVENT THE ONSET OF EXERCISE INDUCED ASTHMATIC SYMPTOMS during the school day ON SCHOOL PROPERTY AND AT ANY SCHOOL FUNCTION AS SUCH TERMS ARE DEFINED, RESPECTIVELY, BY SUBDIVISIONS ONE AND TWO OF SECTION ELEVEN OF THIS CHAPTER, with the written permission of a physician or other duly authorized health care provider, and WRITTEN parental consent[, based on such physician's or provider's determination that such pupil is subject to sudden asthmatic attacks severe enough to debilitate such pupil]. THE WRITTEN PERMISSION SHALL INCLUDE AN ATTESTATION BY THE PHYSICIAN OR THE HEALTH CARE PROVIDER CONFIRMING THE FOLLOWING: (A) THE PUPIL IS DIAGNOSED WITH ASTHMA OR ANOTHER RESPIRATORY DISEASE FOR WHICH INHALED RESCUE MEDICATIONS ARE PRESCRIBED TO ALLEVIATE RESPIRATORY SYMPTOMS OR TO PREVENT THE ONSET OF EXERCISE INDUCED ASTHMATIC SYMPTOMS; AND (B) THAT THE PUPIL HAS DEMONSTRATED THAT HE OR SHE CAN SELF-ADMINISTER THE PRESCRIBED INHALED RESCUE MEDICATION EFFECTIVELY. THE WRITTEN PERMISSION SHALL ALSO INCLUDE THE NAME OF THE PRESCRIBED INHALED RESCUE MEDICATION, THE DOSE, THE TIMES WHEN THE MEDICATION IS TO BE TAKEN, THE CIRCUMSTANCES WHICH MAY WARRANT THE USE OF THE MEDICATION AND THE LENGTH OF TIME FOR WHICH THE INHALER

EXPLANATION--Matter in ITALICS (underscored) is new; matter in brackets [ ] is old law to be omitted.

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IS PRESCRIBED. A record of such CONSENT AND permission shall be maintained in the [school office] STUDENT'S CUMULATIVE HEALTH RECORD. In addition, upon the written request of a parent or person in parental relation, the board of education or trustees of a school district and board of cooperative educational services shall allow such pupils to maintain an extra such inhaler in the care and custody of a [registered professional] LICENSED nurse, NURSE PRACTITIONER, PHYSICIAN ASSISTANT, OR PHYSICIAN employed by such district or board of cooperative educational services, AND SHALL BE READILY ACCESSIBLE TO SUCH PUPIL. Nothing in this section shall require a school district or board of cooperative educational services to retain a [school nurse solely for the purpose of taking custody of a spare inhaler, or require that a school nurse be available at all times in a school building for such purpose] LICENSED NURSE, NURSE PRACTITIONER, PHYSICIAN ASSISTANT, OR PHYSICIAN SOLELY FOR THE PURPOSE OF TAKING CUSTODY OF A SPARE INHALER FOR THE TREATMENT OF ASTHMA OR A RESPIRATORY DISEASE REQUIRING RESCUE MEDICATION TREATMENT, OR REQUIRE THAT A LICENSED NURSE, NURSE PRACTITIONER, PHYSICIAN ASSISTANT, OR PHYSICIAN BE AVAILABLE AT ALL TIMES IN A SCHOOL BUILDING FOR THE PURPOSE OF TAKING CUSTODY OF THE INHALER. IN ADDITION, THE MEDICATION PROVIDED BY THE PUPIL'S PARENTS OR PERSONS IN PARENTAL RELATION SHALL BE MADE AVAILABLE TO THE PUPIL AS NEEDED IN ACCORDANCE WITH THE SCHOOL DISTRICT'S OR BOARD OF COOPERATIVE EDUCATIONAL SERVICES' POLICY AND THE ORDERS PRESCRIBED IN THE WRITTEN PERMISSION OF THE PHYSICIAN OR OTHER AUTHORIZED HEALTH CARE PROVIDER.

2. A SCHOOL DISTRICT, BOARD OF COOPERATIVE EDUCATIONAL SERVICES AND/OR THEIR AGENTS OR EMPLOYEES SHALL INCUR NO LEGAL OR FINANCIAL LIABILITY AS A RESULT OF ANY HARM OR INJURY SUSTAINED BY A PUPIL OR OTHER PERSON CAUSED BY REASONABLE AND GOOD FAITH COMPLIANCE WITH THIS SECTION.

S 2. The education law is amended by adding five new sections 916-a, 916-b, 902-a, 902-b and 921 to read as follows:

S 916-A. PUPILS WITH ALLERGIES. 1. THE BOARD OF EDUCATION OR TRUSTEES OF EACH SCHOOL DISTRICT AND BOARD OF COOPERATIVE EDUCATIONAL SERVICES SHALL ALLOW PUPILS WHO HAVE BEEN DIAGNOSED BY A PHYSICIAN OR OTHER DULY AUTHORIZED HEALTH CARE PROVIDER WITH AN ALLERGY TO CARRY AND USE A PRESCRIBED EPINEPHRINE AUTO INJECTOR FOR THE EMERGENCY TREATMENT OF ALLERGIC REACTIONS DURING THE SCHOOL DAY ON SCHOOL PROPERTY AND AT ANY SCHOOL FUNCTION AS SUCH TERMS ARE DEFINED, RESPECTIVELY, BY SUBDIVISIONS ONE AND TWO OF SECTION ELEVEN OF THIS CHAPTER, WITH THE WRITTEN PERMISSION OF A PHYSICIAN OR OTHER DULY AUTHORIZED HEALTH PROVIDER, AND WRITTEN PARENTAL CONSENT. THE WRITTEN PERMISSION SHALL INCLUDE AN ATTESTATION BY THE PHYSICIAN OR THE HEALTH CARE PROVIDER CONFIRMING THE FOLLOWING: (A) THE PUPIL'S DIAGNOSIS OF AN ALLERGY FOR WHICH AN EPINEPHRINE AUTO INJECTOR IS NEEDED; AND (B) THAT THE PUPIL HAS DEMONSTRATED THAT HE OR SHE CAN SELF-ADMINISTER THE PRESCRIBED EPINEPHRINE AUTO INJECTOR EFFECTIVELY. THE WRITTEN PERMISSION SHALL ALSO INCLUDE THE CIRCUMSTANCES WHICH MAY WARRANT THE USE OF THE EPINEPHRINE AUTO INJECTOR. A RECORD OF SUCH CONSENT AND PERMISSION SHALL BE MAINTAINED IN THE STUDENT'S CUMULATIVE HEALTH RECORD. IN ADDITION, UPON THE WRITTEN REQUEST OF A PARENT OR PERSON IN PARENTAL RELATION, THE BOARD OF EDUCATION OR TRUSTEES OF A SCHOOL DISTRICT AND BOARD OF COOPERATIVE EDUCATIONAL SERVICES SHALL ALLOW SUCH PUPILS TO MAINTAIN AN EXTRA EPINEPHRINE AUTO INJECTOR FOR THE EMERGENCY TREATMENT OF ALLERGIES IN THE CARE AND CUSTODY OF LICENSED NURSE, NURSE PRACTITIONER, PHYSICIAN ASSISTANT, OR PHYSICIAN EMPLOYED BY SUCH DISTRICT OR BOARD OF COOPERATIVE EDUCATIONAL SERVICES, AND SHALL BE READILY ACCESSIBLE TO SUCH PUPIL. NOTHING IN THIS SECTION SHALL REQUIRE A SCHOOL DISTRICT OR BOARD OF COOPERATIVE

EDUCATIONAL SERVICES TO RETAIN A LICENSED NURSE, NURSE PRACTITIONER, PHYSICIAN ASSISTANT, OR PHYSICIAN SOLELY FOR THE PURPOSE OF TAKING CUSTODY OF A SPARE EPINEPHRINE AUTO INJECTOR FOR THE EMERGENCY TREATMENT OF ALLERGIC REACTIONS, OR REQUIRE THAT A LICENSED NURSE, NURSE PRACTITIONER, PHYSICIAN ASSISTANT, OR PHYSICIAN BE AVAILABLE AT ALL TIMES IN A SCHOOL BUILDING FOR TAKING CUSTODY OF THE EPINEPHRINE AUTO INJECTOR. IN ADDITION, THE EPINEPHRINE AUTO INJECTOR PROVIDED BY THE PUPIL'S PARENTS OR PERSONS IN PARENTAL RELATION WILL BE MADE AVAILABLE TO THE PUPIL AS NEEDED IN ACCORDANCE WITH THE SCHOOL DISTRICT'S OR BOARD OF COOPERATIVE EDUCATIONAL SERVICES' POLICY AND THE ORDERS PRESCRIBED IN THE WRITTEN PERMISSION OF THE PHYSICIAN OR OTHER AUTHORIZED HEALTH CARE PROVIDER.

2. A SCHOOL DISTRICT, BOARD OF COOPERATIVE EDUCATIONAL SERVICES AND/OR THEIR AGENTS OR EMPLOYEES SHALL INCUR NO LEGAL OR FINANCIAL LIABILITY AS A RESULT OF ANY HARM OR INJURY SUSTAINED BY A PUPIL OR OTHER PERSON CAUSED BY REASONABLE AND GOOD FAITH COMPLIANCE WITH THIS SECTION.

S 916-B. PUPILS WITH DIABETES. 1. THE BOARD OF EDUCATION OR TRUSTEES OF EACH SCHOOL DISTRICT AND BOARD OF COOPERATIVE EDUCATIONAL SERVICES SHALL ALLOW PUPILS WHO HAVE BEEN DIAGNOSED WITH DIABETES TO CARRY GLUCAGON AND CARRY AND USE INSULIN THROUGH APPROPRIATE MEDICATION DELIVERY DEVICES AND EQUIPMENT AND/OR TO CARRY AND USE EQUIPMENT AND SUPPLIES NECESSARY TO CHECK BLOOD GLUCOSE LEVELS AND KETONE LEVELS, AS PRESCRIBED BY A PHYSICIAN OR OTHER DULY AUTHORIZED HEALTHCARE PROVIDER, DURING THE SCHOOL DAY ON SCHOOL PROPERTY AND AT ANY SCHOOL FUNCTION AS SUCH TERMS ARE DEFINED, RESPECTIVELY, BY SUBDIVISIONS ONE AND TWO OF SECTION ELEVEN OF THIS CHAPTER, WITH PARENTAL CONSENT AND THE WRITTEN PERMISSION OF A PHYSICIAN OR OTHER DULY AUTHORIZED HEALTH CARE PROVIDER. THE WRITTEN PERMISSION SHALL INCLUDE AN ATTESTATION BY THE PHYSICIAN OR THE HEALTH CARE PROVIDER CONFIRMING THE FOLLOWING: (A) THE PUPIL'S DIAGNOSIS OF DIABETES MAKES THE DELIVERY OF INSULIN AND GLUCAGON THROUGH APPROPRIATE MEDICATION DELIVERY DEVICES DURING THE SCHOOL DAY ON SCHOOL PROPERTY OR AT ANY SCHOOL FUNCTION NECESSARY AND/OR MAKES THE USE OF EQUIPMENT AND SUPPLIES TO CHECK BLOOD GLUCOSE LEVELS AND KETONE LEVELS NECESSARY; AND (B) THAT THE PUPIL HAS DEMONSTRATED THAT HE OR SHE CAN SELF-ADMINISTER THE PRESCRIBED INSULIN EFFECTIVELY AND CAN SELF CHECK GLUCOSE OR KETONE LEVELS AND CAN INDEPENDENTLY FOLLOW THE TREATMENT ORDERS PRESCRIBED BY THE PHYSICIAN OR OTHER AUTHORIZED HEALTH CARE PROVIDER IN THE WRITTEN PERMISSION. THE WRITTEN PERMISSION SHALL IDENTIFY PRESCRIBED BLOOD GLUCOSE TESTS, KETONE TESTS, INSULIN AND GLUCAGON TO BE USED BY THE PUPIL AT SCHOOL AND/OR DURING SCHOOL FUNCTIONS. IF INSULIN OR GLUCAGON IS PRESCRIBED, THE WRITTEN PERMISSION SHALL INCLUDE THE NAME OF THE TYPE OF INSULIN, THE DOSE OR DOSE RANGE, THE TIMES WHEN THE MEDICATION IS TO BE TAKEN, THE TYPE OF INSULIN DELIVERY SYSTEM AND ANY OTHER INFORMATION PRESCRIBED BY THE COMMISSIONER IN REGULATION, AFTER CONSULTATION WITH THE COMMISSIONER OF HEALTH. A RECORD OF SUCH CONSENT AND PERMISSION SHALL BE MAINTAINED IN THE STUDENT'S CUMULATIVE HEALTH RECORD. IN ADDITION, UPON THE WRITTEN REQUEST OF A PARENT OR PERSON IN PARENTAL RELATION, THE BOARD OF EDUCATION OR TRUSTEES OF A SCHOOL DISTRICT AND BOARD OF COOPERATIVE EDUCATIONAL SERVICES SHALL ALLOW SUCH PUPILS TO MAINTAIN EXTRA INSULIN AND AN INSULIN DELIVERY SYSTEM, GLUCAGON, BLOOD GLUCOSE METERS AND RELATED SUPPLIES USED TO TREAT SUCH PUPIL'S DIABETES IN THE CARE AND CUSTODY OF A LICENSED NURSE, NURSE PRACTITIONER, PHYSICIAN ASSISTANT, OR PHYSICIAN EMPLOYED BY SUCH DISTRICT OR BOARD OF COOPERATIVE EDUCATIONAL SERVICES, AND SHALL BE READILY ACCESSIBLE TO SUCH PUPIL. NOTHING IN THIS SECTION SHALL REQUIRE A SCHOOL DISTRICT OR BOARD OF COOPERATIVE EDUCATIONAL SERVICES TO RETAIN A LICENSED NURSE, NURSE PRACTITIONER, PHYSICIAN ASSISTANT, OR PHYSICIAN SOLELY FOR THE PURPOSE

OF TAKING CUSTODY OF EXTRA INSULIN AND AN INSULIN DELIVERY SYSTEM, GLUCAGON, BLOOD GLUCOSE METERS AND RELATED SUPPLIES USED TO TREAT SUCH PUPIL'S DIABETES, OR REQUIRE THAT A LICENSED NURSE, NURSE PRACTITIONER, PHYSICIAN ASSISTANT, OR PHYSICIAN BE AVAILABLE AT ALL TIMES IN A SCHOOL BUILDING FOR THE PURPOSE OF TAKING CUSTODY OF EXTRA INSULIN AND AN INSULIN DELIVERY SYSTEM, GLUCAGON, BLOOD GLUCOSE METERS AND RELATED SUPPLIES. IN ADDITION, THE MEDICATION AND DEVICES, EQUIPMENT AND SUPPLIES PROVIDED BY THE PUPIL'S PARENTS OR PERSONS IN PARENTAL RELATION SHALL BE MADE AVAILABLE TO THE PUPIL AS NEEDED IN ACCORDANCE WITH THE SCHOOL DISTRICT'S OR BOARD OF COOPERATIVE EDUCATIONAL SERVICES' POLICY AND THE ORDERS PRESCRIBED IN THE WRITTEN PERMISSION OF THE PHYSICIAN OR OTHER AUTHORIZED HEALTH CARE PROVIDER. PUPILS WITH DIABETES MAY ALSO CARRY ANY FOOD NECESSARY TO TREAT HYPOGLYCEMIA PURSUANT TO THE SCHOOL DISTRICT POLICY, PROVIDED, HOWEVER, SUCH SCHOOL DISTRICT POLICY SHALL NOT UNREASONABLY INTERFERE WITH A PUPIL'S ABILITY TO TREAT HYPOGLYCEMIA.

2. A SCHOOL DISTRICT, BOARD OF COOPERATIVE EDUCATIONAL SERVICES AND/OR THEIR AGENTS OR EMPLOYEES SHALL INCUR NO LEGAL OR FINANCIAL LIABILITY AS A RESULT OF ANY HARM OR INJURY SUSTAINED BY A PUPIL OR OTHER PERSON CAUSED BY REASONABLE AND GOOD FAITH COMPLIANCE WITH THIS SECTION.

S 902-A. TREATMENT OF STUDENTS DIAGNOSED WITH DIABETES BY SCHOOL PERSONNEL. 1. LICENSED NURSES, NURSE PRACTITIONERS, PHYSICIAN ASSISTANTS, OR PHYSICIANS EMPLOYED BY SCHOOL DISTRICTS OR BOARDS OF COOPERATIVE EDUCATIONAL SERVICES ARE AUTHORIZED TO CALCULATE PRESCRIBED INSULIN DOSAGES, ADMINISTER PRESCRIBED INSULIN, PROGRAM THE PRESCRIBED INSULIN PUMP, REFILL THE RESERVOIR IN THE INSULIN PUMP, CHANGE THE INFUSION SITE, INJECT PRESCRIBED GLUCAGON, TEACH AN UNLICENSED PERSON TO ADMINISTER GLUCAGON TO AN INDIVIDUAL, AND PERFORM OTHER AUTHORIZED SERVICES PURSUANT TO THE SCOPE OF PRACTICE OF THE LICENSED INDIVIDUAL UNDER TITLE VIII OF THIS CHAPTER, TO PUPILS WHO HAVE RECEIVED WRITTEN PERMISSION BY A PHYSICIAN OR OTHER LICENSED HEALTH CARE PROVIDER, AND WRITTEN PARENTAL CONSENT TO CARRY AND USE INSULIN AND GLUCAGON PURSUANT TO SECTION NINE HUNDRED SIXTEEN-B OF THIS ARTICLE, DURING THE SCHOOL DAY ON SCHOOL PROPERTY AND AT ANY SCHOOL FUNCTION AS SUCH TERMS ARE DEFINED, RESPECTIVELY, BY SUBDIVISIONS ONE AND TWO OF SECTION ELEVEN OF THIS CHAPTER. NOTHING IN THIS SECTION SHALL AUTHORIZE UNLICENSED PERSONS TO PERFORM THESE SERVICES EXCEPT AS OTHERWISE PERMITTED BY SECTION NINE HUNDRED TWENTY-ONE OF THIS ARTICLE.

2. A SCHOOL DISTRICT, BOARD OF COOPERATIVE EDUCATIONAL SERVICES AND/OR THEIR AGENTS OR EMPLOYEES SHALL INCUR NO LEGAL OR FINANCIAL LIABILITY AS A RESULT OF ANY HARM OR INJURY SUSTAINED BY A PUPIL OR OTHER PERSON CAUSED BY REASONABLE AND GOOD FAITH COMPLIANCE WITH THIS SECTION.

S 902-B. TREATMENT BY LICENSED SCHOOL PERSONNEL OF STUDENTS DIAGNOSED WITH ALLERGIES. 1. LICENSED NURSES, NURSE PRACTITIONERS, PHYSICIAN ASSISTANTS, OR PHYSICIANS EMPLOYED BY SCHOOLS ARE AUTHORIZED TO ADMINISTER PRESCRIBED EPINEPHRINE PURSUANT TO THE SCOPE OF PRACTICE OF THE LICENSED INDIVIDUAL UNDER TITLE VIII OF THIS CHAPTER, TO PUPILS DIAGNOSED BY A PHYSICIAN OR OTHER DULY AUTHORIZED HEALTH CARE PROVIDER WITH AN ALLERGY WHO HAVE THE WRITTEN PERMISSION OF A PHYSICIAN OR OTHER DULY AUTHORIZED HEALTH CARE PROVIDER FOR THE ADMINISTRATION OF EMERGENCY EPINEPHRINE AND WRITTEN PARENTAL CONSENT TO CARRY AND USE AN EPINEPHRINE AUTO INJECTOR PURSUANT TO SECTION NINE HUNDRED SIXTEEN-A OF THIS ARTICLE, DURING THE SCHOOL DAY ON SCHOOL PROPERTY AND AT ANY SCHOOL FUNCTION AS SUCH TERMS ARE DEFINED, RESPECTIVELY, BY SUBDIVISIONS ONE AND TWO OF SECTION ELEVEN OF THIS CHAPTER.

2. A SCHOOL DISTRICT, BOARD OF COOPERATIVE EDUCATIONAL SERVICES AND/OR THEIR AGENTS OR EMPLOYEES SHALL INCUR NO LEGAL OR FINANCIAL LIABILITY AS

A RESULT OF ANY HARM OR INJURY SUSTAINED BY A PUPIL OR OTHER PERSON CAUSED BY REASONABLE AND GOOD FAITH COMPLIANCE WITH THIS SECTION.

S 921. TRAINING OF UNLICENSED SCHOOL PERSONNEL TO ADMINISTER CERTAIN MEDICATIONS. 1. THE BOARD OF EDUCATION OR TRUSTEES OF EACH SCHOOL DISTRICT AND BOARD OF COOPERATIVE EDUCATIONAL SERVICES AND NONPUBLIC SCHOOLS ARE AUTHORIZED, BUT NOT OBLIGATED TO HAVE LICENSED REGISTERED PROFESSIONAL NURSES, NURSE PRACTITIONERS, PHYSICIAN ASSISTANTS, AND PHYSICIANS TRAIN UNLICENSED SCHOOL PERSONNEL TO INJECT PRESCRIBED GLUCAGON OR EPINEPHRINE AUTO INJECTORS IN EMERGENCY SITUATIONS, WHERE AN APPROPRIATELY LICENSED HEALTH PROFESSIONAL IS NOT AVAILABLE, TO PUPILS WHO HAVE THE WRITTEN PERMISSION OF A PHYSICIAN OR OTHER DULY AUTHORIZED HEALTH CARE PROVIDER FOR THE ADMINISTRATION OF INJECTABLE GLUCAGON OR EMERGENCY EPINEPHRINE AUTO INJECTOR, ALONG WITH WRITTEN PARENTAL CONSENT, DURING THE SCHOOL DAY ON SCHOOL PROPERTY AND AT ANY SCHOOL FUNCTION AS SUCH TERMS ARE DEFINED, RESPECTIVELY, BY SUBDIVISIONS ONE AND TWO OF SECTION ELEVEN OF THIS CHAPTER. TRAINING MUST BE PROVIDED BY A PHYSICIAN OR OTHER DULY AUTHORIZED LICENSED HEALTH CARE PROFESSIONAL IN A COMPETENT MANNER AND MUST BE COMPLETED IN A FORM AND MANNER PRESCRIBED BY THE COMMISSIONER IN REGULATION.

2. A SCHOOL DISTRICT, BOARD OF COOPERATIVE EDUCATIONAL SERVICES, NONPUBLIC SCHOOLS AND/OR THEIR AGENTS OR EMPLOYEES SHALL INCUR NO LEGAL OR FINANCIAL LIABILITY AS A RESULT OF ANY HARM OR INJURY SUSTAINED BY A PUPIL OR OTHER PERSON CAUSED BY REASONABLE AND GOOD FAITH COMPLIANCE WITH THIS SECTION.

S 3. This act shall take effect the first of July next succeeding the date on which it shall have become a law. Provided, that effective immediately, the addition, amendment and/or repeal of any rule or regulation necessary for the timely implementation of this act on its effective date are authorized and directed to be made and completed on or before such effective date.