

2471

2009-2010 Regular Sessions

I N A S S E M B L Y

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Introduced by M. of A. ORTIZ, ESPAILLAT, GALEF, FIELDS, SPANO -- Multi-Sponsored by -- M. of A. HOOPER, JACOBS, McENENY, PERRY, J. RIVERA, SEMINERIO, TOWNS, WEISENBERG, WRIGHT -- read once and referred to the Committee on Education

AN ACT to amend the education law, in relation to the use of epinephrine by students

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

1 Section 1. The education law is amended by adding a new section 920 to
2 read as follows:

3 S 920. PUPILS AFFLICTED WITH SEVERE FOOD OR OTHER ALLERGIES. 1. A.
4 THE BOARD OF EDUCATION OR TRUSTEES OF EACH SCHOOL DISTRICT AND BOARD OF
5 COOPERATIVE EDUCATIONAL SERVICES SHALL ALLOW PUPILS WHO HAVE BEEN DIAG-
6 NOSED BY A PHYSICIAN OR OTHER DULY AUTHORIZED HEALTH CARE PROVIDER WITH
7 A SEVERE FOOD OR OTHER ALLERGY TO CARRY AND USE THE PRESCRIBED MEDICA-
8 TION EPINEPHRINE AND A DEVICE TO SELF-ADMINISTER EPINEPHRINE, SUCH AS AN
9 EPINEPHRINE AUTO-INJECTOR, DURING THE SCHOOL DAY AND DURING SCHOOL SPON-
10 SORED ACTIVITIES THAT OCCUR AFTER THE REGULAR SCHOOL DAY OR OUTSIDE OF
11 THE SCHOOL, WITH THE WRITTEN PERMISSION OF A PHYSICIAN OR OTHER DULY
12 AUTHORIZED HEALTH CARE PROVIDER, AND PARENTAL CONSENT, BASED ON SUCH
13 PHYSICIAN'S OR PROVIDER'S DETERMINATION THAT SUCH PUPIL IS SUBJECT TO
14 ALLERGIC ATTACKS SEVERE ENOUGH TO DEBILITATE SUCH PUPIL. A RECORD OF
15 SUCH PERMISSION SHALL BE MAINTAINED IN THE SCHOOL OFFICE.

16 B. THE BOARD OF EDUCATION OR TRUSTEES OF EACH SCHOOL DISTRICT OR BOARD
17 OF COOPERATIVE EDUCATIONAL SERVICES THAT HAS ALLOWED THE USE OF EPINEPH-
18 RINE AND A DEVICE TO SELF-ADMINISTER EPINEPHRINE BY A STUDENT PURSUANT
19 TO THE PROVISIONS OF PARAGRAPH A OF THIS SUBDIVISION SHALL PREPARE FOR
20 EACH SUCH STUDENT AN EMERGENCY ACTION PLAN AND A SEVERE ALLERGY TREAT-
21 MENT PLAN WITH THE ASSISTANCE OF THE PHYSICIAN OF THE PUPIL, WHICH IDEN-
22 TIFIES, AT A MINIMUM, SEVERE ALLERGY TRIGGERS, THE TREATMENT PLAN, AND
23 SUCH OTHER ELEMENTS AS SHALL BE DETERMINED BY THE PHYSICIAN. THE COMMIS-

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

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SIONER, IN CONSULTATION WITH THE COMMISSIONER OF HEALTH, SHALL ESTABLISH STANDARDS FOR THE DEVELOPMENT OF SUCH PLANS.

2. THE BOARD OF EDUCATION OR TRUSTEES OF EACH SCHOOL DISTRICT OR BOARD OF COOPERATIVE EDUCATIONAL SERVICES THAT HAS APPROVED THE USE OF EPINEPHRINE AND A DEVICE TO SELF-ADMINISTER EPINEPHRINE BY A STUDENT PURSUANT TO THE PROVISIONS OF SUBDIVISION ONE OF THIS SECTION SHALL INFORM THE PARENTS, GUARDIANS OR PERSONS IN PARENTAL RELATION TO THE PUPIL IN WRITING THAT THE SCHOOL DISTRICT OR BOARD OF COOPERATIVE EDUCATIONAL SERVICES AND ITS EMPLOYEES OR AGENTS SHALL INCUR NO LIABILITY AS A RESULT OF ANY INJURY ARISING FROM THE SELF-ADMINISTRATION OF SUCH MEDICATION BY THE PUPIL. THE PARENTS, GUARDIANS OR PERSONS IN PARENTAL RELATION TO THE PUPIL SHALL SIGN A STATEMENT ACKNOWLEDGING THAT THE DISTRICT OR BOARD OF COOPERATIVE EDUCATIONAL SERVICES SHALL INCUR NO LIABILITY AS A RESULT OF ANY INJURY ARISING FROM THE SELF-ADMINISTRATION OF SUCH MEDICATION BY THE PUPIL AND THE PARENTS, GUARDIANS OR PERSONS IN PARENTAL RELATION SHALL INDEMNIFY AND HOLD HARMLESS THE SCHOOL DISTRICT OR BOARD OF COOPERATIVE EDUCATIONAL SERVICES AND ITS EMPLOYEES AND AGENTS FROM ANY CLAIMS ARISING OUT OF THE SELF-ADMINISTRATION OF SUCH MEDICATION BY THE PUPIL.

3. A. EVERY SCHOOL DISTRICT, BOARD OF COOPERATIVE EDUCATIONAL SERVICES AND NONPUBLIC ELEMENTARY AND SECONDARY SCHOOL IN THIS STATE SHALL REQUIRE AT LEAST ONE DEVICE CONTAINING EPINEPHRINE USED TO ADMINISTER EPINEPHRINE, SUCH AS AN EPINEPHRINE AUTO-INJECTOR, BE MAINTAINED IN THE OFFICE OF THE SCHOOL NURSE OR IN A SIMILAR ACCESSIBLE LOCATION.

B. THE COMMISSIONER SHALL PROMULGATE REGULATIONS FOR THE ADMINISTRATION OF EPINEPHRINE THROUGH THE USE OF A DEVICE TO ADMINISTER EPINEPHRINE BY THE SCHOOL NURSE OR OTHER PERSON AUTHORIZED BY REGULATION. THE REGULATIONS SHALL INCLUDE:

(I) A REQUIREMENT THAT EACH CERTIFIED NURSE OR OTHER PERSON AUTHORIZED TO ADMINISTER EPINEPHRINE IN SCHOOLS RECEIVE TRAINING IN ALLERGY MANAGEMENT AND IN THE USE OF DEVICES TO SELF-ADMINISTER EPINEPHRINE CONSISTENT WITH NATIONALLY RECOGNIZED STANDARDS, INCLUDING, BUT NOT LIMITED TO, THOSE OF THE NATIONAL INSTITUTES OF HEALTH AND THE AMERICAN ASSOCIATION OF ALLERGY AND IMMUNOLOGY.

(II) A REQUIREMENT THAT INFORMATION BE PROVIDED TO TEACHING AND OTHER SCHOOL STAFF ABOUT:

(1) THE PRESENCE OF STUDENTS IN THE SCHOOL WHO MAY SUFFER FROM SEVERE FOOD OR OTHER ALLERGIES AND THE POTENTIAL CONSEQUENCES OF SUCH ALLERGIES;

(2) THE NEED FOR EPINEPHRINE THROUGH THE USE OF A DEVICE TO ADMINISTER EPINEPHRINE;

(3) THE AVAILABILITY OF SUCH MEDICATION FROM THE SCHOOL NURSE OR OTHER PERSON AUTHORIZED BY REGULATION, AND THE USE OF SUCH MEDICATION BY PUPILS AUTHORIZED PURSUANT TO SUBDIVISION ONE OF THIS SECTION; AND

(4) THE PROTOCOL TO BE FOLLOWED WHEN A PUPIL EXPERIENCES A SEVERE ALLERGIC REACTION.

S 2. This act shall take effect on the one hundred twentieth day after it shall have become a law; provided, however, that effective immediately the commissioner of education is authorized to promulgate rules and regulations for the implementation of this act on such effective date.