

4269

2009-2010 Regular Sessions

I N   A S S E M B L Y

February 2, 2009

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Introduced by M. of A. ORTIZ, ESPAILLAT, JACOBS, MILLMAN, HOYT, CASTRO  
-- Multi-Sponsored by -- M. of A. BING, FARRELL, KOON, V. LOPEZ,  
MAYERSOHN, PERRY, J. RIVERA, ROBINSON, SALADINO, WEINSTEIN -- read  
once and referred to the Committee on Education

AN ACT to amend the education law, in relation to the use of inhalers  
and nebulizers

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

1     Section 1. Section 916 of the education law, as amended by chapter 524  
2     of the laws of 2006, is amended to read as follows:  
3     S 916. Pupils afflicted with asthma OR OTHER POTENTIALLY LIFE-THREAT-  
4     ENING RESPIRATORY ILLNESSES. The board of education or trustees of each  
5     school district and board of cooperative educational services shall  
6     allow pupils who have been diagnosed by a physician or other duly  
7     authorized health care provider with a severe asthmatic condition OR  
8     OTHER POTENTIALLY LIFE-THREATENING RESPIRATORY ILLNESSES to carry and  
9     use a prescribed inhaler during the school day, with the written permis-  
10    sion of a physician or other duly authorized health care provider, and  
11    parental consent, based on such physician's or provider's determination  
12    that such pupil is subject to sudden asthmatic attacks severe enough to  
13    debilitate such pupil. A record of such permission shall be maintained  
14    in the school office. In addition, upon the written request of a parent  
15    or person in parental relation, the board of education or trustees of a  
16    school district and board of cooperative educational services shall  
17    allow such pupils to maintain an extra such inhaler in the care and  
18    custody of a registered professional nurse employed by such district or  
19    board of cooperative educational services. Nothing in this section  
20    shall require a school district or board of cooperative educational  
21    services to retain a school nurse solely for the purpose of taking  
22    custody of a spare inhaler, or require that a school nurse be available  
23    at all times in a school building for such purpose.

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

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

3 S 920. ASTHMA ACTION PLANS. EACH PUPIL AUTHORIZED TO USE ANY ASTHMA  
4 MEDICATION SHALL HAVE AN ASTHMA ACTION PLAN PREPARED BY THE PHYSICIAN OR  
5 OTHER DULY AUTHORIZED HEALTH CARE PROVIDER OF THE PUPIL, WHICH IDENTI-  
6 FIES, AT A MINIMUM, ASTHMA TRIGGERS, THE TREATMENT PLAN, AND SUCH OTHER  
7 ELEMENTS AS SHALL BE DETERMINED BY THE COMMISSIONER IN CONSULTATION WITH  
8 THE COMMISSIONER OF HEALTH.

9 S 3. This act shall take effect on the one hundred twentieth day after  
10 it shall have become a law; provided, however, that effective immediate-  
11 ly the commissioner of education is authorized to promulgate rules and  
12 regulations for the implementation of this act on such effective date.