

STATE OF NEW YORK

7766

IN SENATE

February 21, 2018

Introduced by Sen. ALCANTARA -- read twice and ordered printed, and when printed to be committed to the Committee on Higher Education

AN ACT to amend the education law, in relation to administering asthma rescue medications and authorizing schools to possess and administer asthma rescue medications in emergency situations

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

1 Section 1. Subdivision 6 of section 6527 of the education law is
2 amended by adding a new paragraph (h) to read as follows:

3 (h) administering asthma rescue medications.

4 § 2. Subdivision 4 of section 6909 of the education law is amended by
5 adding a new paragraph (h) to read as follows:

6 (h) administering asthma rescue medications.

7 § 3. Section 916 of the education law, as amended by chapter 423 of
8 the laws of 2014, is amended to read as follows:

9 § 916. Pupils with asthma or another respiratory disease requiring
10 rescue inhaler treatment. 1. The board of education or trustees of each
11 school district, including the board of education of the city of New
12 York, and board of cooperative educational services shall allow pupils
13 who have been diagnosed by a physician or other duly authorized health
14 care provider with an asthmatic condition or another respiratory disease
15 to carry and use a prescribed inhaler and self-administer inhaled rescue
16 medications to alleviate respiratory symptoms or to prevent the onset of
17 exercise induced asthmatic symptoms during the school day on school
18 property and at any school function as such terms are defined, respec-
19 tively, by subdivisions one and two of section eleven of this chapter,
20 with the written permission of a physician or other duly authorized
21 health care provider, and written parental consent. The written permis-
22 sion shall include an attestation by the physician or the health care
23 provider confirming the following: (a) the pupil is diagnosed with asth-
24 ma or another respiratory disease for which inhaled rescue medications
25 are prescribed to alleviate respiratory symptoms or to prevent the onset
26 of exercise induced asthmatic symptoms; and (b) that the pupil has
27 demonstrated that he or she can self-administer the prescribed inhaled

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

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1 rescue medication effectively. The written permission shall also
2 include the name of the prescribed inhaled rescue medication, the dose,
3 the times when the medication is to be taken, the circumstances which
4 may warrant the use of the medication and the length of time for which
5 the inhaler is prescribed. A record of such consent and permission shall
6 be maintained in the student's cumulative health record. In addition,
7 upon the written request of a parent or person in parental relation, the
8 board of education or trustees of a school district, including the board
9 of education of the city of New York, and board of cooperative educa-
10 tional services shall allow such pupils to maintain an extra such inhal-
11 er in the care and custody of a licensed nurse, nurse practitioner,
12 physician assistant, or physician employed by such district, the city of
13 New York, or board of cooperative educational services, and shall be
14 readily accessible to such pupil. Nothing in this section shall require
15 a school district, the city of New York, or board of cooperative educa-
16 tional services to retain a licensed nurse, nurse practitioner, physi-
17 cian assistant, or physician solely for the purpose of taking custody of
18 a spare inhaler for the treatment of asthma or a respiratory disease
19 requiring rescue medication treatment, or require that a licensed nurse,
20 nurse practitioner, physician assistant, or physician be available at
21 all times in a school building for the purpose of taking custody of the
22 inhaler. In addition, the medication provided by the pupil's parents or
23 persons in parental relation shall be made available to the pupil as
24 needed in accordance with the school district's, board of education of
25 the city of New York's, or board of cooperative educational services'
26 policy and the orders prescribed in the written permission of the physi-
27 cian or other authorized health care provider.

28 2. (a) School districts, boards of cooperative educational services,
29 county vocational education and extension boards, charter schools, and
30 non-public elementary and secondary schools in this state may provide
31 and maintain on-site in each instructional school facility asthma rescue
32 medications in quantities and types deemed by the commissioner, in
33 consultation with the commissioner of health, and for the city of New
34 York, the commissioner of health of the city of New York, to be adequate
35 to ensure ready and appropriate access for use during emergencies.

36 (b) Every parent or guardian of a pupil who is administered such asth-
37 ma rescue medications shall be notified in writing of such incident. The
38 required content of such notification shall be determined by the commis-
39 sioner, in consultation with the commissioner of health, and for the
40 city of New York, the commissioner of health of the city of New York,
41 and shall at a minimum include:

42 (i) A recommendation that such pupil be evaluated by a physician or
43 other duly authorized health care provider to determine if such pupil
44 has an asthmatic condition or another respiratory disease; and

45 (ii) A recommendation that if such pupil is diagnosed with such condi-
46 tion or disease that the parent or guardian take the actions necessary
47 to ensure the pupil may receive asthma controller medications and asthma
48 rescue medications in school. If the pupil is able to self-carry, the
49 parent or guardian take the actions necessary under subdivision one of
50 this section for such pupil to carry and use a prescribed inhaler and
51 self-administer inhaled rescue medications to alleviate respiratory
52 symptoms or to prevent the onset of exercise induced asthmatic symptoms
53 during the school day on school property and at any school function as
54 such terms are defined, respectively, by subdivisions one and two of
55 section eleven of this chapter.

1 3. A school district, including the board of education of the city of
2 New York, board of cooperative educational services and/or their agents
3 or employees shall incur no legal or financial liability as a result of
4 any harm or injury sustained by a pupil or other person caused by
5 reasonable and good faith compliance with this section.

6 § 4. This act shall take effect on the first of July next succeeding
7 the date on which it shall have become a law. Effective immediately, the
8 addition, amendment and/or repeal of any rule or regulation necessary
9 for the implementation of this act on its effective date are authorized
10 and directed to be made and completed on or before such effective date.