

# STATE OF NEW YORK

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2458--C

2021-2022 Regular Sessions

## IN ASSEMBLY

January 19, 2021

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Introduced by M. of A. HYNDMAN -- read once and referred to the Committee on Education -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- recommitted to the Committee on Education in accordance with Assembly Rule 3, sec. 2 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- again reported from said committee with amendments, ordered reprinted as amended and recommitted to said committee

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 (i) to read as follows:

3 (i) administering asthma rescue medications.

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

6 (i) 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, or in the case of the city school district of New York,  
12 the chancellor of the city school district, and board of cooperative  
13 educational services shall allow pupils who have been diagnosed by a  
14 physician or other duly authorized health care provider with an asthmatic  
15 condition or another respiratory disease to carry and use a  
16 prescribed inhaler and self-administer inhaled rescue medications to  
17 alleviate respiratory symptoms or to prevent the onset of exercise  
18 induced asthmatic symptoms during the school day on school property and

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

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1 at any school function as such terms are defined, respectively, by  
2 subdivisions one and two of section eleven of this chapter, with the  
3 written permission of a physician or other duly authorized health care  
4 provider, and written parental consent. The written permission shall  
5 include an attestation by the physician or the health care provider  
6 confirming the following: (a) the pupil is diagnosed with asthma or  
7 another respiratory disease for which inhaled rescue medications are  
8 prescribed to alleviate respiratory symptoms or to prevent the onset of  
9 exercise induced asthmatic symptoms; and (b) that the pupil has demon-  
10 strated that he or she can self-administer the prescribed inhaled rescue  
11 medication effectively. The written permission shall also include the  
12 name of the prescribed inhaled rescue medication, the dose, the times  
13 when the medication is to be taken, the circumstances which may warrant  
14 the use of the medication and the length of time for which the inhaler  
15 is prescribed. A record of such consent and permission shall be main-  
16 tained in the student's cumulative health record. In addition, upon the  
17 written request of a parent or person in parental relation, the board of  
18 education or trustees of a school district, or in the case of the city  
19 school district of New York, the chancellor, and board of cooperative  
20 educational services shall allow such pupils to maintain an extra such  
21 inhaler in the care and custody of a licensed nurse, nurse practitioner,  
22 physician assistant, or physician employed by such district or board of  
23 cooperative educational services, and shall be readily accessible to  
24 such pupil. Nothing in this section shall require a school district or  
25 board of cooperative educational services to retain a licensed nurse,  
26 nurse practitioner, physician assistant, or physician solely for the  
27 purpose of taking custody of a spare inhaler for the treatment of asthma  
28 or a respiratory disease requiring rescue medication treatment, or  
29 require that a licensed nurse, nurse practitioner, physician assistant,  
30 or physician be available at all times in a school building for the  
31 purpose of taking custody of the inhaler. In addition, the medication  
32 provided by the pupil's parents or persons in parental relation shall be  
33 made available to the pupil as needed in accordance with the school  
34 district's, or board of cooperative educational services' policy and the  
35 orders prescribed in the written permission of the physician or other  
36 authorized health care provider.

37 2. (a) The board of education or trustees of each school district, or  
38 in the case of the city school district of New York, the chancellor of  
39 the city school district, and boards of cooperative educational services  
40 in this state may provide and maintain on-site in each instructional  
41 school facility asthma rescue medications in quantities and types deemed  
42 by the commissioner, in consultation with the commissioner of health,  
43 and for the city of New York, the commissioner of health of the city of  
44 New York, to be adequate to ensure ready and appropriate access for  
45 supervised use by a registered nurse, where practicable, during emergen-  
46 cies. Such emergency use of asthma rescue medication shall only be used  
47 if the pupil's prescribed asthma rescue medication or spare inhaler is  
48 not readily accessible or in emergency situations where a pupil does not  
49 have access to any asthma rescue medication.

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

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

4 (ii) A recommendation that if such pupil is diagnosed with such condi-  
5 tion or disease that the parent or guardian take the actions necessary  
6 to ensure the pupil may receive asthma controller medications and asthma  
7 rescue medications in school and develops an asthma action plan. If the  
8 pupil is able to self-carry, the parent or guardian take the actions  
9 necessary under subdivision one of this section for such pupil to carry  
10 and use a prescribed inhaler and self-administer inhaled rescue medica-  
11 tions to alleviate respiratory symptoms or to prevent the onset of exer-  
12 cise induced asthmatic symptoms during the school day on school property  
13 and at any school function as such terms are defined, respectively, by  
14 subdivisions one and two of section eleven of this chapter.

15 3. A school district, board of cooperative educational services and/or  
16 their agents or employees shall incur no legal or financial liability as  
17 a result of any harm or injury sustained by a pupil or other person  
18 caused by reasonable and good faith compliance with this section.

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