

STATE OF NEW YORK

1019--C

Cal. No. 502

2021-2022 Regular Sessions

IN SENATE

(Prefiled)

January 6, 2021

Introduced by Sens. KAMINSKY, ADDABBO, GAUGHRAN -- read twice and ordered printed, and when printed to be committed 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 Senate Rule 6, sec. 8 -- reported favorably from said committee, ordered to first and second report, ordered to a third reading, amended and ordered reprinted, retaining its place in the order of third reading -- again amended and ordered reprinted, retaining its place in the order of third reading

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 asthmat-
15 ic condition or another respiratory disease to carry and use a
16 prescribed inhaler and self-administer inhaled rescue medications to

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

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

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

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

1 city of New York, the commissioner of health of the city of New York,
2 and shall at a minimum include:

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

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

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

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