STATE OF NEW YORK

3273

2021-2022 Regular Sessions

IN SENATE

January 28, 2021

Introduced by Sen. PARKER -- read twice and ordered printed, and when printed to be committed to the Committee on Finance

AN ACT to amend the education law, in relation to requiring nebulizers on school grounds; and to amend chapter 672 of the laws of 2007, amending the education law relating to the maintenance of on-site nebulizers, in relation to the effectiveness thereof; and making an appropriation therefor

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

Section 1. The education law is amended by adding a new section 804-e to read as follows:

§ 804-e. Nebulizer instruction. Instructions regarding the correct use of a nebulizer shall be included as a part of the health education curriculum in all senior high schools when cardiopulmonary resuscitation instruction is being provided as authorized by section eight hundred four-c of this article. Persons instructing pupils in the correct use of nebulizers shall possess valid certification by a nationally recognized organization or the state emergency medical services council offering certification in the operation of a nebulizer and in its instruction.

§ 2. Section 919 of the education law, as amended by chapter 42 of the laws of 2008, is amended to read as follows:

§ 919. On-site nebulizers. 1. [~~The board of education or trustees of the school district responsible for providing health services in a school, or the board of cooperative educational services in the case of programs under its jurisdiction~~] **School districts, boards of cooperative educational services, county vocational education and extension boards and charter schools**, shall [~~make~~] **provide and maintain** a nebulizer [~~available~~] on-site in every public and private school building in [~~which full or part time nurse services are provided~~] **a manner that ensures ready and appropriate access for use during emergencies**.

2. Nebulizers in such school buildings shall be made available to allow reasonable access to all public and private school students with a patient specific order, who require inhaled medications administered by

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

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a nebulizer, provided, however, that nebulizers shall be administered by a school nurse or physician pursuant to the student's patient specific order. Every nebulizer shall be maintained in working order by the school district or board of cooperative educational services that provides school health services to the school building where the nebulizer is located.

[~~2.~~] **3. Whenever public or private school facilities pursuant to subdivision one of this section are used for school sponsored or school approved curricular or extracurricular events or activities and whenever a school-sponsored athletic contest is held at any location, the public school officials and administrators responsible for such school facility or athletic contest shall ensure the presence of at least one staff person who is trained in the operation and use of a nebulizer. Where a school-sponsored competitive athletic event is held at a site other than a public school facility, the public school officials shall assure that a nebulizer is provided on-site.**

4. Any employee or other agent of any school district, board of cooperative educational services, county vocational education and extension board and charter school who, in accordance with the provisions of this section, voluntarily and without expectation of monetary compensation renders emergency medical or first aid treatment using a nebulizer which has been made available pursuant to this section, to a person who is unconscious, ill or injured, shall be liable only pursuant to subdivision one of section three thousand-a of the public health law.

5. The commissioner shall be authorized to promulgate regulations for the implementation of this section.

§ 3. Section 2 of chapter 672 of the laws of 2007, amending the education law relating to the maintenance of on-site nebulizers, is amended to read as follows:

§ 2. This act shall take effect September 1, 2007[~~; provided, however, that if upon such effective date, an appropriation to the education department shall not have been made for reimbursement of school districts and boards of cooperative educational services for the purposes of implementing the provisions of section 919 of the education law, as added by section one of this act, then this act shall take effect on the forty-fifth day after such an appropriation is made, and provided, further, that the division of the budget shall notify the legislative bill drafting commission on September 1, 2007 whether such an appropriation has been made, and if such appropriation shall not have been made on or before such date, the division of the budget shall notify the legislative bill drafting commission upon the date such an appropriation shall have been made, in order that the commission may maintain an accurate and timely effective data base of the official text of the laws of the state of New York in furtherance of effectuating the provisions of section 44 of the legislative law and section 70-b of the public officers law~~].

§ 4. The state of New York shall make an appropriation to the department of education for reimbursement of school districts and boards of cooperative educational services for the purposes of implementing this act.

§ 5. This act shall take effect on the one hundred twentieth day after it shall have become a law; provided, however, that section three of this act shall take effect immediately. Effective immediately, the addition, amendment and/or repeal of any rule or regulation necessary for the implementation of this act on its effective date are authorized to be made on or before such effective date.