

# STATE OF NEW YORK

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2458--A

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

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, 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  
19 at any school function as such terms are defined, respectively, by  
20 subdivisions one and two of section eleven of this chapter, with the  
21 written permission of a physician or other duly authorized health care  
22 provider, and written parental consent. The written permission shall  
23 include an attestation by the physician or the health care provider

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

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

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

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

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

54 (ii) A recommendation that if such pupil is diagnosed with such condi-  
55 tion or disease that the parent or guardian take the actions necessary  
56 to ensure the pupil may receive asthma controller medications and asthma

1 rescue medications in school and develops an asthma action plan. If the  
2 pupil is able to self-carry, the parent or guardian take the actions  
3 necessary under subdivision one of this section for such pupil to carry  
4 and use a prescribed inhaler and self-administer inhaled rescue medica-  
5 tions to alleviate respiratory symptoms or to prevent the onset of exer-  
6 cise induced asthmatic symptoms during the school day on school property  
7 and at any school function as such terms are defined, respectively, by  
8 subdivisions one and two of section eleven of this chapter.

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

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