

STATE OF NEW YORK

5432

2023-2024 Regular Sessions

IN ASSEMBLY

March 10, 2023

Introduced by M. of A. HYNDMAN -- read once and referred to the Committee on 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 (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
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
24 confirming the following: (a) the pupil is diagnosed with asthma or

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

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

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

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

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

53 (ii) A recommendation that if such pupil is diagnosed with such condi-
54 tion or disease that the parent or guardian take the actions necessary
55 to ensure the pupil may receive asthma controller medications and asthma
56 rescue medications in school and develops an asthma action plan. If the

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

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

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