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:

Section 1. Subdivision 6 of section 6527 of the education law is amended by adding a new paragraph (i) to read as follows:

(i) administering asthma rescue medications.

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

(i) administering asthma rescue medications.

§ 3. Section 916 of the education law, as amended by chapter 423 of the laws of 2014, is amended to read as follows:

§ 916. Pupils with asthma or another respiratory disease requiring rescue inhaler treatment. 1. The board of education or trustees of each school district**, or in the case of the city school district of New York, the chancellor of the city school district,** and board of cooperative educational services shall allow pupils who have been diagnosed by a physician or other duly authorized health care provider with an asthmatic condition or another respiratory disease to carry and use a prescribed inhaler and self-administer inhaled rescue medications to alleviate respiratory symptoms or to prevent the onset of exercise induced asthmatic symptoms during the school day on school property and at any school function as such terms are defined, respectively, by subdivisions one and two of section eleven of this chapter, with the written permission of a physician or other duly authorized health care provider, and written parental consent. The written permission shall include an attestation by the physician or the health care provider 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.

LBD06433-01-3

another respiratory disease for which inhaled rescue medications are prescribed to alleviate respiratory symptoms or to prevent the onset of exercise induced asthmatic symptoms; and (b) that the pupil has demonstrated that he or she can self-administer the prescribed inhaled rescue medication effectively. The written permission shall also include the name of the prescribed inhaled rescue medication, the dose, the times when the medication is to be taken, the circumstances which may warrant the use of the medication and the length of time for which the inhaler is prescribed. A record of such consent and permission shall be maintained in the student's cumulative health record. In addition, upon the written request of a parent or person in parental relation, the board of education or trustees of a school district**, or in the case of the city school district of New York, the chancellor,** and board of cooperative educational services shall allow such pupils to maintain an extra such inhaler in the care and custody of a licensed nurse, nurse practitioner, physician assistant, or physician employed by such district or board of cooperative educational services, and shall be readily accessible to such pupil. Nothing in this section shall require a school district or board of cooperative educational services to retain a licensed nurse, nurse practitioner, physician assistant, or physician solely for the purpose of taking custody of a spare inhaler for the treatment of asthma or a respiratory disease requiring rescue medication treatment, or require that a licensed nurse, nurse practitioner, physician assistant, or physician be available at all times in a school building for the purpose of taking custody of the inhaler. In addition, the medication provided by the pupil's parents or persons in parental relation shall be made available to the pupil as needed in accordance with the school district's, or board of cooperative educational services' policy and the orders prescribed in the written permission of the physician or other authorized health care provider.

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

(b) Every parent or guardian of a pupil who is administered such asthma rescue medications shall be notified in writing of such incident. The required content of such notification shall be determined by the commissioner, in consultation with the commissioner of health, and for the city of New York, the commissioner of health of the city of New York, and shall at a minimum include:

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

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

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

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

§ 4. This act shall take effect on the first of July next succeeding the date on which it shall have become a law. 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 and completed on or before such effective date.