STATE OF NEW YORK

5434

2023-2024 Regular Sessions

IN ASSEMBLY

March 10, 2023

Introduced by M. of A. HUNTER -- read once and referred to the Committee on Education

AN ACT to amend the education law, in relation to allowing for unlicensed personnel to administer seizure rescue medication

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

Section 1. Subdivision 1 of section 921 of the education law, as amended by chapter 339 of the laws of 2021, is amended to read as follows:

1. The board of education or trustees of each school district and board of cooperative educational services and nonpublic schools are authorized, but not obligated to have licensed registered professional nurses, nurse practitioners, physician assistants, and physicians train unlicensed school personnel to administer prescribed glucagon or epinephrine auto injectors**, or administer diazepam or midazolam nasal spray** in emergency situations, where an appropriately licensed health professional is not available, to pupils who have the written permission of a physician or other duly authorized health care provider for the administration of glucagon [~~or~~]**,** emergency epinephrine auto injector, **or diazepam or midazolam nasal spray,** along with written parental consent, 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. Training must be provided by a physician or other duly authorized licensed health care professional in a competent manner and must be completed in a form and manner prescribed by the commissioner in regulation.

§ 2. The education law is amended by adding two new sections 902-c and 916-c to read as follows:

§ 902-c. Treatment of students diagnosed with epilepsy by school personnel. 1. Licensed nurses, nurse practitioners, physician assistants, or physicians employed by school districts or boards of cooperative educational services shall be authorized to administer prescribed diazepam or midazolam nasal spray, to teach an unlicensed person to administer a diazepam or midazolam nasal spray to an individual, and to

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

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perform other authorized services pursuant to the scope of practice of the licensed individual under title eight of this chapter, to pupils who have received written permission by a physician or other licensed health care provider and written parental consent to carry and use a diazepam or midazolam nasal spray pursuant to section nine hundred sixteen-c of this article during the school day on school property and at any school function. Nothing in this section shall authorize unlicensed persons to perform these services except as otherwise permitted by section nine hundred twenty-one of this article.

2. 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.

§ 916-c. Pupils with epilepsy. 1. The board of education or trustees of each 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 epilepsy to carry and use a prescribed nasal spray for the emergency treatment of seizures during the school day on school property and at any school function 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 such physician or health care provider confirming: (a) the pupil's diagnosis of epilepsy for which a diazepam or midazolam nasal spray is needed; and (b) that the pupil has demonstrated that he or she can self-administer the prescribed diazepam or midazolam nasal spray effectively. Such written permission shall also include the circumstances which may warrant the use of a diazepam or midazolam nasal spray. 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 and board of cooperative educational services shall allow such pupils to maintain an extra diazepam or midazolam nasal spray for the emergency treatment of seizures 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 diazepam or midazolam nasal spray for the emergency treatment of seizures, or require that a licensed nurse, nurse practitioner, physician assistant, or physician be available at all times in a school building for taking custody of the diazepam or midazolam nasal spray. In addition, the diazepam or midazolam nasal spray provided by the pupil's parents or persons in parental relation will 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 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.

§ 3. This act shall take effect immediately.