

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

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

14 § 916-c. Pupils with epilepsy. 1. The board of education or trustees  
15 of each school district and board of cooperative educational services  
16 shall allow pupils who have been diagnosed by a physician or other duly  
17 authorized health care provider with epilepsy to carry and use a  
18 prescribed nasal spray for the emergency treatment of seizures during  
19 the school day on school property and at any school function with the  
20 written permission of a physician or other duly authorized health care  
21 provider, and written parental consent. The written permission shall  
22 include an attestation by such physician or health care provider  
23 confirming: (a) the pupil's diagnosis of epilepsy for which a diazepam  
24 or midazolam nasal spray is needed; and (b) that the pupil has demon-  
25 strated that he or she can self-administer the prescribed diazepam or  
26 midazolam nasal spray effectively. Such written permission shall also  
27 include the circumstances which may warrant the use of a diazepam or  
28 midazolam nasal spray. A record of such consent and permission shall be  
29 maintained in the student's cumulative health record. In addition, upon  
30 the written request of a parent or person in parental relation, the  
31 board of education or trustees of a school district and board of coop-  
32 erative educational services shall allow such pupils to maintain an  
33 extra diazepam or midazolam nasal spray for the emergency treatment of  
34 seizures in the care and custody of a licensed nurse, nurse practition-  
35 er, physician assistant, or physician employed by such district or board  
36 of cooperative educational services, and shall be readily accessible to  
37 such pupil. Nothing in this section shall require a school district or  
38 board of cooperative educational services to retain a licensed nurse,  
39 nurse practitioner, physician assistant, or physician solely for the  
40 purpose of taking custody of a spare diazepam or midazolam nasal spray  
41 for the emergency treatment of seizures, or require that a licensed  
42 nurse, nurse practitioner, physician assistant, or physician be avail-  
43 able at all times in a school building for taking custody of the diazep-  
44 am or midazolam nasal spray. In addition, the diazepam or midazolam  
45 nasal spray provided by the pupil's parents or persons in parental  
46 relation will be made available to the pupil as needed in accordance  
47 with the school district's or board of cooperative educational services'  
48 policy and the orders prescribed in the written permission of the physi-  
49 cian or other authorized health care provider.

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

54 § 3. This act shall take effect immediately.