

STATE OF NEW YORK

3129

2023-2024 Regular Sessions

IN SENATE

January 27, 2023

Introduced by Sens. MANNION, ADDABBO, HELMING -- read twice and ordered printed, and when printed to be committed 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:

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

4 1. The board of education or trustees of each school district and
5 board of cooperative educational services and nonpublic schools are
6 authorized, but not obligated to have licensed registered professional
7 nurses, nurse practitioners, physician assistants, and physicians train
8 unlicensed school personnel to administer prescribed glucagon or
9 epinephrine auto injectors, or administer diazepam or midazolam nasal
10 spray in emergency situations, where an appropriately licensed health
11 professional is not available, to pupils who have the written permission
12 of a physician or other duly authorized health care provider for the
13 administration of glucagon [~~or~~], emergency epinephrine auto injector, or
14 diazepam or midazolam nasal spray, along with written parental consent,
15 during the school day on school property and at any school function as
16 such terms are defined, respectively, by subdivisions one and two of
17 section eleven of this chapter. Training must be provided by a physician
18 or other duly authorized licensed health care professional in a compe-
19 tent manner and must be completed in a form and manner prescribed by the
20 commissioner in regulation.

21 § 2. The education law is amended by adding two new sections 902-c and
22 916-c to read as follows:

23 § 902-c. Treatment of students diagnosed with epilepsy by school
24 personnel. 1. Licensed nurses, nurse practitioners, physician assist-
25 ants, or physicians employed by school districts or boards of cooper-
26 ative educational services shall be authorized to administer prescribed
27 diazepam or midazolam nasal spray, to teach an unlicensed person to

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

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

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

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

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

55 § 3. This act shall take effect immediately.