

SENATE BILL NO. 289
INTRODUCED BY GALLUS, BECKER

A BILL FOR AN ACT ENTITLED: "AN ACT ALLOWING PUPILS OF PUBLIC AND NONPUBLIC SCHOOLS TO CARRY AND SELF-ADMINISTER PRESCRIBED MEDICATION FOR ASTHMA, SEVERE ALLERGIES, OR ANAPHYLAXIS; AMENDING SECTION 20-5-420, MCA; AND PROVIDING AN EFFECTIVE DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 20-5-420, MCA, is amended to read:

"20-5-420. Self-administration or possession of asthma ASTHMA, SEVERE ALLERGY, OR ANAPHYLAXIS medication. (1) As used in this section, the following definitions apply:

(a) "Anaphylaxis" means a systemic allergic reaction that can be fatal in a short time period and is also known as anaphylactic shock.

(b) "Asthma" means a chronic disorder or condition of the lungs that requires lifetime, ongoing, medical intervention.

(c) "Medication" means a medicine, including inhaled bronchodilators, inhaled corticosteroids, and autoinjectable epinephrine, prescribed by a licensed physician as defined in 37-3-102, a physician assistant who has been authorized to prescribe ~~asthma~~ medications as provided in 37-20-404, or an advanced practice registered nurse with prescriptive authority as provided in 37-8-202(5).

(d) "Self-administration" means a pupil's discretionary use of the ~~asthma~~ medication prescribed for the pupil.

(e) "Severe allergies" means a life-threatening hypersensitivity to a specific substance such as food, pollen, or dust.

(2) A school, whether public or nonpublic, shall permit the possession or self-administration of medication by a pupil with asthma ~~or, severe allergies, OR ANAPHYLAXIS~~ if the parents or guardians of the pupil provide to the school:

(a) written authorization, acknowledging and agreeing to the liability provisions in subsection (4), for the possession or self-administration of medication;

(b) a written statement from the pupil's physician, physician assistant, or advanced practice registered nurse containing the following information:

(i) the name and purpose of the medication;

(ii) the prescribed dosage; and

(iii) the time or times at which or the special circumstances under which the medication is to be administered;

(c) documentation that the pupil has demonstrated to the health care practitioner and the school nurse, if available, the skill level necessary to ~~administer the~~ SELF-ADMINISTER THE ASTHMA, SEVERE ALLERGY, OR ANAPHYLAXIS medication as prescribed; and

(d) documentation that the pupil's physician, physician assistant, or advanced practice registered nurse has formulated a written treatment plan for managing asthma, severe allergies, or anaphylaxis episodes of the pupil and for medication use by the pupil during school hours.

(3) The information provided by the parents or guardians must be kept on file in the office of the school nurse or, in the absence of a school nurse, the school's administrator.

(4) The school district or nonpublic school and its employees and agents are not liable as a result of any injury arising from the self-administration of medication by the pupil unless an act or omission is the result of gross negligence, willful and wanton conduct, or an intentional tort. The parents or guardians of the pupil must be given a written notice and sign a statement acknowledging that the school district or nonpublic school may not incur liability as a result of any injury arising from the self-administration of medication by the pupil and that the parents or guardians shall indemnify and hold harmless the school district or nonpublic school and its employees and agents against any claims, except a claim based on an act or omission that is the result of gross negligence, willful and wanton conduct, or an intentional tort.

(5) The permission for self-administration of ASTHMA, SEVERE ALLERGY, OR ANAPHYLAXIS medication is effective for the school year for which it is granted and must be renewed each subsequent school year or, if the medication EXPIRES OR THE dosage, frequency of administration, or other conditions change, upon fulfillment of the requirements of this section.

(6) If the requirements of this section are fulfilled, a pupil with asthma ~~or~~, severe allergies, OR ANAPHYLAXIS may possess and use the pupil's medication:

(a) while in school;

(b) while at a school-sponsored activity;

(c) while under the supervision of school personnel;

(d) before or after normal school activities, such as while in before-school or after-school care on school-operated property; or

(e) while in transit to or from school or school-sponsored activities.

(7) If provided by the parent or guardian and in accordance with documents provided by the pupil's physician, physician assistant, or advanced practice registered nurse, ASTHMA, SEVERE ALLERGY, OR ANAPHYLAXIS medication may be kept by the pupil and backup medication must be kept at a pupil's school in a predetermined location or locations to which the pupil has immediate access in the event of an asthma, SEVERE ALLERGY, or anaphylaxis emergency.

(8) Immediately after using epinephrine during school hours, a student shall report to the school nurse or other adult at the school who shall provide followup care, including making a 9-1-1 emergency call.

~~(8)~~(9) Youth correctional facilities are exempt from this section and shall adopt policies related to access and use of asthma and, SEVERE allergy, OR ANAPHYLAXIS medications."

NEW SECTION. Section 2. Effective date. [This act] is effective July 1, 2007.

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