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HOUSE BILL NO. 1010**AMENDMENT IN THE NATURE OF A SUBSTITUTE**(Proposed by the House Committee on Education
on February 11, 2000)

(Patron Prior to Substitute—Delegate Morgan)

A BILL to amend and reenact § 22.1-275.1 of the Code of Virginia, and to amend the Code of Virginia by adding sections numbered 8.01-226.5:1 and 22.1-274.2, relating to the possession and self-administration of inhaled asthma medications by students in the public schools.

Be it enacted by the General Assembly of Virginia:

1. That § 22.1-275.1 of the Code of Virginia is amended and reenacted, and that the Code of Virginia is amended by adding sections numbered 8.01-226.5:1 and 22.1-274.2 as follows:

§ 8.01-226.5:1. Civil immunity for school boards and school employees.

A. Any school principal or other employee of a school board who, in good faith, without compensation, and in the absence of gross negligence or willful misconduct, supervises the self-administration of inhaled asthma medications by a student, pursuant to § 22.1-274.2, shall not be liable for any civil damages for acts or omissions resulting from the supervision of self-administration of inhaled asthma medications by such student.

B. For the purposes of this section, "employee" shall include any person employed by a local health department who is assigned to a public school pursuant to an agreement between a local health department and a school board.

§ 22.1-274.2. Possession and self-administration of inhaled asthma medications by asthmatic students.

A. Effective on July 1, 2000, local school boards shall develop and implement policies permitting a student with a diagnosis of asthma to possess and self-administer inhaled asthma medications during the school day, at school-sponsored activities, or while on a school bus or other school property. Such policies shall require that (i) certain conditions are satisfied before a student is granted permission to possess and self-administer inhaled asthma medications; (ii) the parent of a student who has a diagnosis of asthma and the student's primary care provider, or a licensed physician or nurse practitioner, submit any documents or information required of such persons by this section to the school principal of the school in which the student is enrolled on such forms as may be required by the school board; (iii) the school principal document to the division superintendent that the conditions have been satisfied; (iv) a provision is in place that allows the school principal to impose reasonable limitations or restrictions upon a student's possession and self-administration of inhaled asthma medications as provided in subsection B; and (v) a provision is in place that allows the school principal to revoke permission to possess and self-administer inhaled asthma medications at any point during the school year as provided in subsection C. The school principal shall document that the following conditions have been satisfied:

1. Written notification to the student's school by the student's primary care provider or medical specialist, or a licensed physician or licensed nurse practitioner, that the student has a diagnosis of asthma and has approval to self-administer inhaled asthma medications prescribed or authorized for the student by the primary care provider or medical specialist, or other licensed physician or nurse practitioner. The written notice shall identify the student, specify the name and dosage of the medication, and specify the frequency with which it is to be administered. The student's primary care provider or medical specialist, or other licensed physician or nurse practitioner, shall attest to the student's demonstrated ability to safely and effectively self-administer inhaled asthma medications and of the student's understanding that he is to report to the school nurse or, if the school nurse is not available, to the principal or his designee if self-administration of the medication as prescribed does not relieve the student's asthmatic symptoms. The notice shall also include guidance as to when the inhaled asthma medications may be used, such as before exercising or engaging in physical activity to prevent the onset of asthmatic symptoms or to alleviate asthmatic symptoms after the onset of an asthmatic episode.

2. Written consent of the parent, as defined in § 22.1-1, of a student with a primary care provider's or medical specialist's, or licensed physician's or licensed nurse practitioner's, diagnosis of asthma that the student may self-administer inhaled asthma medications.

3. Submission of a signed, written statement by the student's parent indicating that he will not hold the school board or any of its employees liable for any negative outcomes resulting from the self-administration of inhaled asthma medications by the student.

4. Submission of a written, individualized health care plan for the student, which has been prepared by the student's primary care provider or medical specialist, or a licensed physician or licensed nurse practitioner, in consultation with the student's parent and a school health case manager or other

60 appropriate school personnel. The individualized health care plan shall include appropriate procedures
61 for providing emergency care to the student and shall be signed by the student's parent, the school
62 principal, and the student's primary care provider or medical specialist, or licensed physician or
63 licensed nurse practitioner, who developed the plan. Any individualized health care plan developed for a
64 student who has been permitted to possess and self-administer inhaled asthma medications shall be
65 administered by the school principal in a manner consistent with the purpose of the guidelines
66 pertaining to the self-administration of medications of the Virginia School Health Guidelines for
67 Specialized Health Care Procedures Manual, jointly issued by the State Health Department and the
68 Department of Education.

69 5. Receipt of copies of the documents from the student's primary care provider or medical specialist,
70 or a licensed physician or licensed nurse practitioner, and the student's parent by the school principal
71 as required in this section.

72 6. Disclosure or dissemination of information pertaining to the health condition of a student to other
73 school board employees by the school principal in accordance with §§ 22.1-287 and 22.1-289 and the
74 federal Family Education Rights and Privacy Act of 1974, as amended, 20 U.S.C. § 1232g, which
75 govern the disclosure and dissemination of information contained in student scholastic records.

76 Upon the documentation by the school principal to the division superintendent that the conditions
77 have been satisfied, the division superintendent or his designee shall provide written notification to the
78 student's parent, the school principal, and the school nurse, if any, that the student has been granted
79 permission to possess and self-administer inhaled asthma medications.

80 B. A school principal may impose reasonable limitations or restrictions upon a student's possession
81 and self-administration of inhaled asthma medications relative to the age and maturity of the student or
82 to other relevant considerations.

83 C. A school principal may revoke permission to possess and self-administer inhaled asthma
84 medications at any point during the school year, if it is determined, after consulting with the student's
85 parent and primary care provider or medical specialist, or a school nurse, or other licensed physician
86 or licensed nurse practitioner, that the student has abused the privilege of possession and
87 self-administration or that the student is not safely and effectively self-administering the medication.

88 D. The permission granted a student with a diagnosis of asthma to possess and self-administer
89 inhaled asthma medications shall be effective for one school year. Permission to possess and
90 self-administer inhaled asthma medications shall be renewed annually. For the purposes of this section,
91 "one school year" means 365 calendar days.

92 § 22.1-275.1. School health advisory board.

93 Each school board shall establish a school health advisory board of no more than twenty members
94 which shall consist of broad-based community representation including, but not limited to, parents,
95 students, health professionals, educators, and others. The school health advisory board shall assist with
96 (i) the development of health policy in the school division and ; (ii) the evaluation of the status of
97 school health, health education, the school environment, and health services; and (iii) the training of
98 school personnel concerning asthma and other chronic health conditions and the self-administration of
99 inhaled asthma medications.

100 The school health advisory board shall hold meetings at least semi-annually and shall annually report
101 on the status and needs of student health in the school division to any relevant school, the school board,
102 the Virginia Department of Health, and the Virginia Department of Education.

103 The local school board may request that the school health advisory board recommend to the local
104 school board procedures relating to children with acute or chronic illnesses or conditions, including, but
105 not limited to, the training of school personnel concerning asthma and other chronic health conditions,
106 the self-administration of inhaled asthma medications, appropriate emergency procedures for any
107 life-threatening conditions, and designation of school personnel to implement the appropriate emergency
108 procedures. Procedures relating to the training of school personnel concerning asthma and the
109 self-administration of inhaled asthma medications shall include guidelines that establish graduated
110 responsibility for self-administration of inhaled asthma medications by students in the public schools,
111 particularly for students in the elementary and middle school grades, that are commensurate with the
112 age, maturity, and grade level of such students. The local school health advisory board shall consult
113 with licensed physicians who specialize in pediatrics, adolescent medicine, allergy and immunology,
114 dermatology, and pulmonary diseases in establishing guidelines for graduated responsibility for
115 self-administration of inhaled asthma medications by such students. The procedures relating to children
116 with acute or chronic illnesses or conditions shall be developed with due consideration of the size and
117 staffing of the schools within the jurisdiction.

118 2. That the Superintendent of Public Instruction shall notify local school boards of the passage of
119 this act by a Superintendent's Administrative Memorandum within 30 days of its enactment.