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HOUSE BILL NO. 1386

Offered January 24, 2000

A BILL 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 asthma medications by students in the public schools.

Patrons—Baskerville, Almand, Amundson, Brink, Cranwell, Crittenden, Darner, Diamonstein, Melvin, Robinson, Scott, Van Landingham, Van Yahres, Watts and Woodrum; Senators: Howell, Marye, Miller, Y.B. and Puckett

Referred to Committee on Education

Be it enacted by the General Assembly of Virginia:

1. 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. Whenever any employee of a school board is covered by the immunity granted herein, the school board employing him shall not be liable for any civil damages for ordinary negligence in acts or omissions resulting from the self-administration of asthma medications by a student.

C. 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 use of self-administered inhaled asthma medications by asthmatic students.

A. Upon the documentation that the following conditions have been satisfied, a school principal shall permit 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. The school principal shall determine that the following conditions have been satisfied:

1. Written notification to the student's school, by a licensed physician or licensed nurse practitioner, that the student has a diagnosis of asthma and has approval to self-administer asthma medications prescribed or authorized for the student by the 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 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 licensed physician's or licensed nurse practitioner's diagnosis of asthma that the student may self-administer 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 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 a licensed physician or licensed nurse practitioner, in consultation with the student's parent and a school health case manager or other appropriate school personnel. The individualized health care plan shall include appropriate procedures for providing emergency care to the student and shall be signed by the student's parent, the school principal, and the student's primary care provider or licensed physician or licensed nurse practitioner who developed the plan. Any individualized health care plan developed for a student who has been permitted to possess and self-administer inhaled asthma medications shall be administered by the school principal in a manner consistent with the purpose of the guidelines pertaining to the self-administration of medications

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60 of the Virginia School Health Guidelines for Specialized Health Care Procedures Manual, jointly issued
61 by the State Health Department and the Department of Education.

62 5. Receipt of copies of the documents from a licensed physician or a licensed nurse practitioner and
63 the student's parent by the school principal as required by this section.

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

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

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

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

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