

VIRGINIA ACTS OF ASSEMBLY -- 2005 SESSION

CHAPTER 785

An Act to amend and reenact §§ 8.01-226.5:1 and 22.1-274.2 of the Code of Virginia, relating to possession and self-administration of auto-injectable epinephrine by students in public schools.

[H 1743]

Approved March 26, 2005

Be it enacted by the General Assembly of Virginia:

1. That §§ 8.01-226.5:1 and 22.1-274.2 of the Code of Virginia are amended and reenacted as follows:

§ 8.01-226.5:1. Civil immunity for school board employees supervising self-administration of certain medication.

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 *or auto-injectable epinephrine* 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 *or auto-injectable epinephrine* by such student. *Further, no such principal or school board employee shall be liable for any civil damages for any injuries or deaths resulting from the misuse of such auto-injectable epinephrine.*

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 and auto-injectable epinephrine by certain students.

A. Effective on July 1, 2000, local school boards shall develop and implement policies permitting a student with a diagnosis of asthma *or anaphylaxis, or both*, to possess and self-administer inhaled asthma medications *or auto-injectable epinephrine, or both, as the case may be*, during the school day, at school-sponsored activities, or while on a school bus or other school property. Such policies shall include, but not be limited to, provisions for:

1. Written consent of the parent, as defined in § 22.1-1, of a student with a diagnosis of asthma *or anaphylaxis, or both*, that the student may self-administer inhaled asthma medications *or auto-injectable epinephrine, or both, as the case may be*.

2. Written notice from the student's primary care provider or medical specialist, or a licensed physician or licensed nurse practitioner that (i) identifies the student; (ii) states that the student has a diagnosis of asthma *or anaphylaxis, or both*, and has approval to self-administer inhaled asthma medications *or auto-injectable epinephrine, or both, as the case may be*, that have been prescribed or authorized for the student; (iii) specifies the name and dosage of the medication, the frequency in which it is to be administered and certain circumstances which may warrant the use of inhaled asthma medications *or auto-injectable epinephrine*, such as before exercising or engaging in physical activity to prevent the onset of ~~asthmatic~~ asthma symptoms or to alleviate ~~asthmatic~~ asthma symptoms after the onset of an ~~asthmatic~~ asthma episode; and (iv) attests to the student's demonstrated ability to safely and effectively self-administer inhaled asthma medications *or auto-injectable epinephrine, or both, as the case may be*.

3. Development of an individualized health care plan, including emergency procedures for any life-threatening conditions.

4. Consultation with the student's parent before any limitations or restrictions are imposed upon a student's possession and self-administration of inhaled asthma medications *and auto-injectable epinephrine*, and before the permission to possess and self-administer inhaled asthma medications *and auto-injectable epinephrine* at any point during the school year is revoked.

5. Self-administration of inhaled asthma medications *and auto-injectable epinephrine* to be consistent with the purposes of the Virginia School Health Guidelines and the Guidelines for Specialized Health Care Procedure Manuals, which are jointly issued by the Department of Education and the Department of Health.

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

B. The permission granted a student with a diagnosis of asthma *or anaphylaxis, or both*, to possess and self-administer inhaled asthma medications *or auto-injectable epinephrine, or both*, shall be effective for one school year. Permission to possess and self-administer ~~inhaled asthma~~ *such* medications shall be

renewed annually. For the purposes of this section, "one school year" means 365 calendar days.

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