HOUSE BILL 53

51ST LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2014

INTRODUCED BY

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AN ACT

RELATING TO SCHOOLS; PERMITTING STUDENTS TO CARRY AND SELF-ADMINISTER EMERGENCY MEDICATION FOR THE TREATMENT OF ASTHMA, RESPIRATORY DISTRESS OR ANAPHYLAXIS.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

SECTION 1. A new section of the Public School Code is enacted to read:

"[NEW MATERIAL] EMERGENCY MEDICATION--SELF-CARRY--SELF-ADMINISTRATION.--

A. For the treatment of asthma, respiratory distress or anaphylaxis, a student shall be permitted by the student's school to carry and self-administer emergency medication:

(1) during school operational hours, at school-sanctioned events and while in transit to or from

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1   school-sanctioned events;

2   (2) prescribed for the student's use by a

3   health care practitioner who has instructed the student on

4   proper usage and believes the student capable of self-

5   administering the emergency medication;

6   (3) with the provision by the parent, guardian

7   or legal custodian of the student of electronic or hard copy

8   documents required by the school, including a treatment plan,

9   written or approved by the student's health care practitioner

10   for managing the conditions necessitating the emergency

11   medications. Such documents shall be filed or maintained by

12   the student's school in a readily accessible location in the

13   event that the student has an asthma attack, respiratory

14   distress or anaphylaxis; and

15   (4) for the school year in which documents are

16   submitted pursuant to Paragraph (3) of this subsection.

17   B.   Backup emergency medication provided by the

18   parent, guardian or legal custodian of the student shall be

19   stored pursuant to board of pharmacy regulations at the

20   student's school in a location to which the student has

21   immediate access in the event that the student has an asthma

22   attack, respiratory distress or anaphylaxis."

23   **SECTION 2.** Section 22-5-4.3 NMSA 1978 (being Laws 1986,

24   Chapter 33, Section 9, as amended) is amended to read:

25   "22-5-4.3.   SCHOOL DISCIPLINE POLICIES [STUDENTS MAY SELF-

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1   ADMINISTER CERTAIN MEDICATIONS].--

2   A. Local school boards shall establish student

3   discipline policies and shall file them with the department.

4   The local school board shall involve parents, school personnel

5   and students in the development of these policies, and public

6   hearings shall be held during the formulation of these policies

7   in the high school attendance areas within each school district

8   or on a district-wide basis for those school districts that

9   have no high school.

10   B. Each school district discipline policy shall

11   establish rules of conduct governing areas of student and

12   school activity, detail specific prohibited acts and activities

13   and enumerate possible disciplinary sanctions, which sanctions

14   may include in-school suspension, school service, suspension or

15   expulsion. Corporal punishment shall be prohibited by each

16   local school board and each governing body of a charter school.

17   C. An individual school within a school district

18   may establish a school discipline policy, provided that

19   parents, school personnel and students are involved in its

20   development and a public hearing is held in the school prior to

21   its adoption. If an individual school adopts a discipline

22   policy in addition to the local school board's school district

23   discipline policy, it shall submit its policy to the local

24   school board for approval.

25   D. No school employee who in good faith reports any

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known or suspected violation of the school discipline policy or in good faith attempts to enforce the policy shall be held liable for any civil damages as a result of such report or of the employee's efforts to enforce any part of the policy.

[E. All public school and school district discipline policies shall allow students to carry and self-administer asthma medication and emergency anaphylaxis medication that has been legally prescribed to the student by a licensed health care provider under the following conditions:

(1) the health care provider has instructed the student in the correct and responsible use of the medication;

(2) the student has demonstrated to the health care provider and the school nurse or other school official the skill level necessary to use the medication and any device that is necessary to administer the medication as prescribed;

(3) the health care provider formulates a written treatment plan for managing asthma or anaphylaxis episodes of the student and for medication use by the student during school hours or school-sponsored activities, including transit to or from school or school-sponsored activities; and

(4) the student's parent has completed and submitted to the school any written documentation required by the school or the school district, including the treatment plan required in Paragraph (3) of this subsection and other

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documents related to liability.

F.   The parent of a student who is allowed to carry and self-administer asthma medication and emergency anaphylaxis medication may provide the school with backup medication that shall be kept in a location to which the student has immediate access in the event of an asthma or anaphylaxis emergency.

G.   Authorized school personnel who in good faith provide a person with backup medication as provided in this section shall not be held liable for civil damages as a result of providing the medication.]"

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