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OFFICE WEST VIRGINIA
SECRETARY OF STATE

WEST VIRGINIA LEGISLATURE

SECOND REGULAR SESSION, 2004

ENROLLED

COMMITTEE SUBSTITUTE
FOR
House Bill No. 4271

(By Delegates Foster, Palumbo, Hatfield and Iaquina)

Passed March 12, 2004

In Effect July 1, 2004

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H. B. 4271

(BY DELEGATES FOSTER, PALUMBO, HATFIELD AND IAQUINTA)

[Passed March 12, 2004; in effect July 1, 2004.]

AN ACT to amend the code of West Virginia, 1931, as amended, by adding thereto a new section, designated §18-5-22b, relating to permitting public and private school students to self-administer asthma medication when certain conditions are met; providing for revocation of permission; limiting liability for injury; providing certain definitions; and providing for state board rule.

Be it enacted by the Legislature of West Virginia:

That the code of West Virginia, 1931, as amended, be amended by adding thereto a new section, designated §18-5-22b, to read as follows:

ARTICLE 5. COUNTY BOARD OF EDUCATION.

§18-5-22b. Providing for self-administration of asthma medication; definitions; conditions; indemnity from liability; rules.

1 (a) For the purposes of this section, the following words
2 have the meanings specified unless the context clearly indicates
3 a different meaning:

4 (1) “Medication” means asthma medicine, prescribed by:

5 (A) A physician licensed to practice medicine in all its
6 branches; or

7 (B) A physician assistant who has been delegated the
8 authority to prescribe asthma medications by a supervising
9 physician; or (C) An advanced practice registered nurse who
10 has a written collaborative agreement with a collaborating
11 physician. Such agreement shall delegate the authority to
12 prescribe the medications for a student that pertain to the
13 student’s asthma and that have an individual prescription label.

14 (2) “Self-administration” or “self-administer” means a
15 student’s discretionary use of prescribed asthma medication.

16 (b) A student enrolled in a public, private, parochial or
17 denominational school located within this state may possess and
18 self-administer asthma medication subject to the following
19 conditions:

20 (1) The parents or guardians of the student have provided
21 to the school:

22 (A) A written authorization for the self-administration of
23 asthma medication; and

24 (B) A written statement from the physician or advanced
25 practice registered nurse which contains the name, purpose,
26 appropriate usage and dosage of the student’s medication and
27 the time or times at which, or the special circumstances under
28 which, the medication is to be administered;

29 (2) The student has demonstrated the ability and under-
30 standing to self-administer asthma medication by:

31 (A) Passing an assessment by the school nurse evaluating
32 the student's technique of self-administration and level of
33 understanding of the appropriate use of the asthma medication;
34 or

35 (B) In the case of nonpublic schools that do not have a
36 school nurse, providing to the school from the student's
37 physician or advanced practice registered nurse written verifica-
38 tion that the student has passed such an assessment; and

39 (3) The parents or guardians of the student have acknowl-
40 edged in writing that they have read and understand a notice
41 provided by the county board or nonpublic school that:

42 (A) The school, county school board or nonpublic school
43 and its employees and agents are exempt from any liability,
44 except for willful and wanton conduct, as a result of any injury
45 arising from the self-administration of asthma medication by
46 the student; and

47 (B) The parents or guardians indemnify and hold harmless
48 the school, the county board of education or nonpublic school
49 and its employees or guardians and agents against any claims
50 arising out of the self-administration of the medication by the
51 student.

52 (c) The information provided to the school pursuant to
53 subsection (b) of this section shall be kept on file in the office
54 of the school nurse or, in the absence of a school nurse, in the
55 office of the school administrator.

56 (d) Permission for a student to self-administer asthma
57 medication is effective for the school year for which it is

58 granted and shall be renewed each subsequent school year if the
59 requirements of this section are met.

60 (e) Permission to self-administer medication may be
61 revoked if the administrative head of the school finds that the
62 student's technique of self-administration and understanding of
63 the use of the asthma medication is not appropriate or is
64 willfully disregarded.

65 (f) A student with asthma who has met the requirements of
66 this section may possess and use asthma medication:

67 (1) In school;

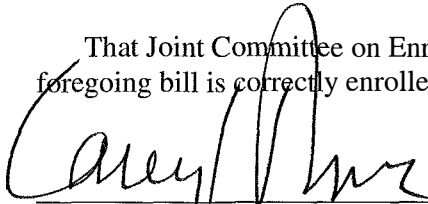
68 (2) At a school-sponsored activity;

69 (3) Under the supervision of school personnel; or

70 (4) Before or after normal school activities, such as before
71 school or after school care on school operated property.

72 (g) The state board shall promulgate rules necessary to
73 effectuate the provisions of this section in accordance with the
74 provisions of article three-b, chapter twenty-nine-a of this code.

That Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.



Chairman Senate Committee



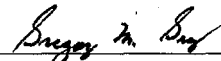
Chairman House Committee

Originating in the House.

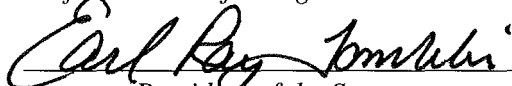
In effect July 1, 2004.



Clerk of the Senate



Clerk of the House of Delegates

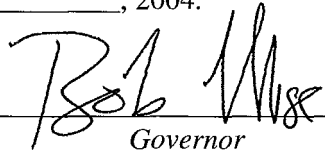


President of the Senate



Speaker of the House of Delegates

The within is approved this the 5th
day of April, 2004.



Governor

PRESENTED TO THE
GOVERNOR
DATE 3/22/04
TIME 10:00am