WEST VIRGINIA CODE: §18-5-22B

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

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

(1) "Medication" means asthma medicine, prescribed by:

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

(B) A physician assistant who has been delegated the authority to prescribe asthma medications by a supervising physician; or

(C) An advanced practice registered nurse who has a written collaborative agreement with a collaborating physician. Such agreement shall delegate the authority to prescribe the medications for a student that pertain to the student's asthma and that have an individual prescription label.

(2) "Self-administration" or "self-administer" means a student's discretionary use of prescribed asthma medication.

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

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

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

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

(2) The student has demonstrated the ability and understanding to self-administer asthma medication by:

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

(B) In the case of nonpublic schools that do not have a school nurse, providing to the school from the student's physician or advanced practice registered nurse written verification that

WV Legislature

the student has passed such an assessment; and

(3) The parents or guardians of the student have acknowledged in writing that they have read and understand a notice provided by the county board or nonpublic school that:

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

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

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

(d) Permission for a student to self-administer asthma medication is effective for the school year for which it is granted and shall be renewed each subsequent school year if the requirements of this section are met.

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

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

(1) In school;

(2) At a school-sponsored activity;

(3) Under the supervision of school personnel; or

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

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

WV Legislature