

Senate Bill 1040

Sponsored by Senators COURTNEY, KRUSE (at the request of American Lung Association of Oregon)

SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced**.

Requires that school district boards adopt policies and procedures relating to self-administration of medication by students with asthma or severe allergies. Exempts certain school personnel from liability in criminal action or for civil damages when assisting student to self-medicate under written permission from student's parent, guardian or health care professional.

Declares emergency, effective July 1, 2007.

A BILL FOR AN ACT

1
2 Relating to students with chronic illnesses; and declaring an emergency.

3 **Be It Enacted by the People of the State of Oregon:**

SECTION 1. (1) As used in this section:

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5 (a) "Asthma" means a chronic disorder or condition of the lungs that requires lifetime
6 and ongoing medical intervention.

7 (b) "Medication" means any prescription medication prescribed by a student's Oregon li-
8 censed health care professional for asthma or severe allergies and includes inhaled
9 bronchodilators and autoinjectable epinephrine.

10 (c) "Severe allergy" means a life-threatening hypersensitivity to a specific substance such
11 as food, pollen or dust.

12 (2) A school district board shall adopt policies and procedures that provide for self-
13 administration of medication by kindergarten through grade 12 students with asthma or se-
14 vere allergies:

15 (a) In school;

16 (b) At a school-sponsored activity;

17 (c) While under the supervision of school personnel;

18 (d) In before-school or after-school care programs on school-owned property; and

19 (e) In transit to or from school or school-sponsored activities.

20 (3) The policies and procedures shall:

21 (a) Require that an Oregon licensed health care professional prescribe the medication to
22 be used by the student during school hours and instruct the student in the correct and re-
23 sponsible use of the medication;

24 (b) Require that the student demonstrate to the school staff person who has been desig-
25 nated to administer medication to students the skill level necessary to self-administer the
26 medication and to use any device necessary to self-administer the medication;

27 (c) Require that an Oregon licensed health care professional, acting within the scope of
28 the person's license, formulate a written treatment plan for managing the student's asthma
29 or severe allergy and for the use of medication by the student during school hours;

30 (d) Require that the parent or guardian of the student submit to the school any written

NOTE: Matter in **boldfaced** type in an amended section is new; matter [*italic and bracketed*] is existing law to be omitted. New sections are in **boldfaced** type.

1 documentation required by the school, including any documents related to liability;

2 (e) Require that a school request from the student's parent or guardian that the stu-
3 dent's parent or guardian provide medication for emergency use by the student; and

4 (f) Allow a school to revoke its permission for a student to self-administer medication if
5 the student does not responsibly self-administer the medication or abuses the use of the
6 medication.

7 (4) A school district board may impose other policies and procedures that the board de-
8 termines are necessary to protect a student with asthma or a severe allergy.

9 (5) A school district board may not require school personnel who have not received ap-
10 propriate training to assist a student with asthma or a severe allergy with self-
11 administration of medication.

12 (6) This section does not apply to youth correctional facilities.

13 **SECTION 2.** (1) A school administrator, school nurse, teacher or other school employee
14 designated by the school administrator is not liable in a criminal action or for civil damages
15 as a result of a student's self-administration of medication, as described in section 1 of this
16 2007 Act, if the school administrator, school nurse, teacher or other school employee, in
17 compliance with the instructions of the student's Oregon licensed health care professional,
18 in good faith assists the student's self-administration of the medication pursuant to written
19 permission and instructions of the student's parent, guardian or Oregon licensed health care
20 professional.

21 (2) The civil and criminal immunities imposed by this section do not apply to an act or
22 omission amounting to gross negligence or willful and wanton misconduct.

23 **SECTION 3.** (1) Section 1 of this 2007 Act first applies to the 2008-2009 school year.

24 (2) Section 2 of this 2007 Act applies to causes of action arising on or after July 1, 2008.

25 **SECTION 4.** This 2007 Act being necessary for the immediate preservation of the public
26 peace, health and safety, an emergency is declared to exist, and this 2007 Act takes effect
27 on July 1, 2007.

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