

House Bill 4019

Sponsored by Representative SCHAUFLER (Presession filed.)

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 school district boards to allow certain medications to be kept in student's classroom if requested by student's parent or guardian.

Requires school district boards to ensure that appropriate number of school personnel receive educational training related to use of autoinjectable epinephrine.

Takes effect July 1, 2012.

A BILL FOR AN ACT

1
2 Relating to students; creating new provisions; amending ORS 339.866 and 339.871; and prescribing
3 an effective date.

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

5 **SECTION 1.** ORS 339.866 is amended to read:

6 339.866. (1) As used in this section:

7 (a) "Asthma" means a chronic inflammatory disorder of the airways that requires ongoing med-
8 ical intervention.

9 (b) "Medication" means any prescription for bronchodilators or autoinjectable epinephrine pre-
10 scribed by a student's Oregon licensed health care professional for asthma or severe allergies.

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

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

16 (a) In school;

17 (b) At a school-sponsored activity;

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

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

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

21 (3) The policies and procedures shall:

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

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

28 (c) Require that the parent or guardian of the student submit to the school any written doc-
29 umentation required by the school, including any documents related to liability;

30 (d) Require that backup medication, if provided by a student's parent or guardian, be kept [*at*]:

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 **(A) At a location in** the student’s school [*in a location*] to which the student has immediate
 2 access in the event the student has an asthma or severe allergy emergency; **or**

3 **(B) In the student’s classroom, if requested in writing by the student’s parent or guard-**
 4 **ian;**

5 (e) Require that a school request from the student’s parent or guardian that the parent or
 6 guardian provide medication for emergency use by the student; [*and*]

7 **(f) Require that the appropriate number of school personnel at each school, as deter-**
 8 **mined under subsection (5) of this section, receive educational training to enable the school**
 9 **personnel to:**

10 **(A) Assist a student with a severe allergy with self-administration of autoinjectable**
 11 **epinephrine; or**

12 **(B) Administer autoinjectable epinephrine if a student with a severe allergy is unable to**
 13 **self-administer the medication; and**

14 [*f*] **(g)** Allow a school to revoke its permission for a student to self-administer medication if the
 15 student does not responsibly self-administer the medication or abuses the use of the medication.

16 (4) A school district board may impose other policies and procedures that the board determines
 17 are necessary to protect a student with asthma or a severe allergy.

18 **(5)(a) The State Board of Education shall establish by rule the ratio of the number of**
 19 **students to the number of school personnel who must receive educational training to enable**
 20 **the school personnel to:**

21 **(A) Assist a student with a severe allergy with self-administration of autoinjectable**
 22 **epinephrine; or**

23 **(B) Administer autoinjectable epinephrine if a student with a severe allergy is unable to**
 24 **self-administer the medication.**

25 [*5*] **(b)** A school district board may not require school personnel who have not received ap-
 26 propriate training to assist a student with asthma or a severe allergy with self-administration of
 27 medication **or to administer autoinjectable epinephrine if a student with a severe allergy is**
 28 **unable to self-administer the medication.**

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

30 **SECTION 2.** ORS 339.871 is amended to read:

31 339.871. (1) A school administrator, school nurse, teacher or other school employee designated
 32 by the school administrator is not liable in a criminal action or for civil damages as a result of a
 33 student’s [*self-administration*] **use** of medication, as described in ORS 339.866, if the school adminis-
 34 trator, school nurse, teacher or other school employee, in compliance with the instructions of the
 35 student’s Oregon licensed health care professional, in good faith:

36 **(a)** Assists the student’s self-administration of the medication, **if the medication is available**
 37 **to the student** pursuant to written permission and instructions of the student’s parent, guardian
 38 or Oregon licensed health care professional[.]; **or**

39 **(b) Administers autoinjectable epinephrine to a student with a severe allergy who is un-**
 40 **able to self-administer the medication, if the school administrator, school nurse, teacher or**
 41 **other school employee has received educational training related to the use of autoinjectable**
 42 **epinephrine and the autoinjectable epinephrine is available for the student pursuant to writ-**
 43 **ten permission and instructions of the student’s parent, guardian or Oregon licensed health**
 44 **care professional.**

45 (2) The civil and criminal immunities imposed by this section do not apply to an act or omission

1 amounting to gross negligence or willful and wanton misconduct.

2 **SECTION 3. The amendments to ORS 339.866 and 339.871 by sections 1 and 2 of this 2012**

3 **Act first apply to the 2012-2013 school year.**

4 **SECTION 4. This 2012 Act takes effect on July 1, 2012.**

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