

D R A F T

SUMMARY

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.

Declares emergency, effective July 1, 2013.

A BILL FOR AN ACT

1
2 Relating to student medication; creating new provisions; amending ORS
3 339.866 and 339.871; and declaring an emergency.

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
8 requires ongoing medical intervention.

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

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

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

17 (a) In school;

18 (b) At a school-sponsored activity;

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

2 (d) In before-school or after-school care programs on school-owned prop-
3 erty; and

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

5 (3) The policies and procedures shall:

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

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

13 (c) Require that the parent or guardian of the student submit to the
14 school any written documentation required by the school, including any
15 documents related to liability;

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

18 **(A) At a location in** the student's school *[in a location]* to which the
19 student has immediate access in the event the student has an asthma or se-
20 vere allergy emergency; **or**

21 **(B) In the student's classroom, if requested in writing by the**
22 **student's parent or guardian;**

23 (e) Require that a school request from the student's parent or guardian
24 that the parent or guardian provide medication for emergency use by the
25 student; *[and]*

26 **(f) Require that the appropriate number of school personnel at each**
27 **school, as determined under subsection (5) of this section, receive ed-**
28 **ucational training to enable the school personnel to:**

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

31 **(B) Administer autoinjectable epinephrine if a student with a severe**

1 **allergy is unable to self-administer the medication; and**

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

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

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

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

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

15 [(5)] (b) A school district board may not require school personnel who
16 have not received appropriate training to assist a student with asthma or a
17 severe allergy with self-administration of medication **or to administer**
18 **autoinjectable epinephrine if a student with a severe allergy is unable**
19 **to self-administer the medication.**

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

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

22 339.871. (1) A school administrator, school nurse, teacher or other school
23 employee designated by the school administrator is not liable in a criminal
24 action or for civil damages as a result of a student's [*self-administration*] **use**
25 of medication, as described in ORS 339.866, if the school administrator,
26 school nurse, teacher or other school employee, in compliance with the in-
27 structions of the student's Oregon licensed health care professional, in good
28 faith:

29 **(a) Assists the student's self-administration of the medication, if the**
30 **medication is available to the student** pursuant to written permission and
31 instructions of the student's parent, guardian or Oregon licensed health care

1 professional[.]; or

2 **(b) Administers autoinjectable epinephrine to a student with a se-**
3 **vere allergy who is unable to self-administer the medication, if the**
4 **school administrator, school nurse, teacher or other school employee**
5 **has received educational training related to the use of autoinjectable**
6 **epinephrine and the autoinjectable epinephrine is available for the**
7 **student pursuant to written permission and instructions of the**
8 **student's parent, guardian or Oregon licensed health care professional.**

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

12 **SECTION 3. The amendments to ORS 339.866 and 339.871 by sections**
13 **1 and 2 of this 2013 Act first apply to the 2013-2014 school year.**

14 **SECTION 4. This 2013 Act being necessary for the immediate pres-**
15 **ervation of the public peace, health and safety, an emergency is de-**
16 **clared to exist, and this 2013 Act takes effect July 1, 2013.**

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