

Enrolled
House Bill 2749

Sponsored by COMMITTEE ON EDUCATION

CHAPTER

AN ACT

Relating to student medication; amending ORS 339.866 and 339.871; and declaring an emergency.

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

SECTION 1. ORS 339.866 is amended to read:

339.866. (1) As used in this section:

(a) "Asthma" means a chronic inflammatory disorder of the airways that requires ongoing medical intervention.

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

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

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

(a) In school;

(b) At a school-sponsored activity;

(c) While under the supervision of school personnel;

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

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

(3) The policies and procedures shall:

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

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

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

(d) Require that backup medication, if provided by a student's parent or guardian, be kept at the student's school in a location to which the student has immediate access in the event the student has an asthma or severe allergy emergency;

(e) Require the establishment of a process by which the parent or guardian of a student may request in writing that backup prescribed autoinjectable epinephrine be kept at a reasonably secure location in a student's classroom if:

(A) The location identified under paragraph (d) of this subsection is not the student's classroom; and

(B) A licensed health care professional verifies in writing that lack of immediate access to autoinjectable epinephrine may be life threatening to the student;

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

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

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

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

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

SECTION 2. ORS 339.871 is amended to read:

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

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

(b) Administers autoinjectable epinephrine to a student with a severe allergy who is unable to self-administer the medication, if the autoinjectable epinephrine is available for the student pursuant to written permission and instructions of the student's parent, guardian or Oregon licensed health care professional.

(2) A school district and the members of a school district board are not liable in a criminal action or for civil damages as a result of a student's use of medication, as described in ORS 339.866, if:

(a) Any person in good faith administers autoinjectable epinephrine to a student with a severe allergy who is unable to self-administer the medication;

(b) The person administered the autoinjectable epinephrine at a school, on school property under the jurisdiction of the district or at an activity under the jurisdiction of the school district; and

(c) The autoinjectable epinephrine is available for the student pursuant to written permission and instructions of the student's parent, guardian or Oregon licensed health care professional.

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

SECTION 3. This 2013 Act being necessary for the immediate preservation of the public peace, health and safety, an emergency is declared to exist, and this 2013 Act takes effect July 1, 2013.

Passed by House April 29, 2013

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Ramona J. Line, Chief Clerk of House

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Tina Kotek, Speaker of House

Passed by Senate May 29, 2013

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Peter Courtney, President of Senate

Received by Governor:

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Approved:

.....M,....., 2013

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John Kitzhaber, Governor

Filed in Office of Secretary of State:

.....M,....., 2013

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Kate Brown, Secretary of State