

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL**No. 1084** Session of
2023

INTRODUCED BY HILL-EVANS, SANCHEZ, FREEMAN, ROZZI, KHAN, FLICK,
MADDEN, HOWARD, WARREN, GUENST, D. WILLIAMS, CIRESI, NEILSON,
PARKER, GREEN, McNEILL, OTTEN, SMITH-WADE-EL, DALEY AND
PROBST, MAY 2, 2023

AS REPORTED FROM COMMITTEE ON EDUCATION, HOUSE OF
REPRESENTATIVES, AS AMENDED, JUNE 3, 2024

AN ACT

1 Amending the act of March 10, 1949 (P.L.30, No.14), entitled "An
2 act relating to the public school system, including certain
3 provisions applicable as well to private and parochial
4 schools; amending, revising, consolidating and changing the
5 laws relating thereto," in school health services, providing
6 for school access to bronchodilators.

7 The General Assembly of the Commonwealth of Pennsylvania
8 hereby enacts as follows:

9 Section 1. The act of March 10, 1949 (P.L.30, No.14), known
10 as the Public School Code of 1949, is amended by adding a
11 section to read:

12 Section 1414.12. School Access to Bronchodilators.--(a) In
13 accordance with this section, a school entity may authorize a
14 school nurse or trained school employe to do any of the
15 following:

16 (1) Provide a bronchodilator that meets the prescription on
17 file for a student or the school entity to the student who is
18 authorized to self-administer the bronchodilator.

1 (2) Administer a bronchodilator that meets the prescription
2 on file for a student or the school entity to the student who
3 the school nurse or trained school employe believes in good
4 faith is experiencing an asthma episode or respiratory distress.

5 (b) Notwithstanding section 11 of the act of April 14, 1972
6 (P.L.233, No.64), known as "The Controlled Substance, Drug,
7 Device and Cosmetic Act," a physician or certified registered
8 nurse practitioner may prescribe a bronchodilator in the name of
9 the school entity for purposes specified under this section.

10 (c) A bronchodilator from the school entity's supply,
11 including a device or device component necessary to
12 appropriately administer the bronchodilator, shall be dispensed
13 from a licensed pharmacy or manufacturer.

14 (d) A school entity may, with a valid prescription under
15 subsection (b), accept a donated bronchodilator, including a
16 device or device component necessary to appropriately administer
17 the bronchodilator. The school entity may seek and apply for
18 funding, including Federal, State, local or private grants, to
19 purchase a bronchodilator, including a device or device
20 component necessary to properly administer the bronchodilator.

21 (e) A physician or certified registered nurse practitioner
22 may refill any used or expired prescription for a bronchodilator
23 in the name of a school entity. The school entity shall maintain
24 the prescription for the bronchodilator as deemed necessary by
25 the school entity for the purposes specified under this section.

26 (f) A school entity shall discard an expired bronchodilator
27 in accordance with the school entity's standard protocols and
28 the manufacturer's instructions.

29 (g) A school entity shall maintain a supply of
30 bronchodilators at a school in a secure, unlocked and easily

1 accessible location. The location shall be disclosed to a school
2 nurse and the trained employe that is designated to administer a
3 bronchodilator when the school nurse is not available.

4 (h) A school entity ~~may~~ SHALL designate no less than two <--
5 individuals, including a school nurse and trained employe, at
6 each school who shall be responsible for the storage and
7 administration of a bronchodilator. Each school shall appoint no <--
8 less than one trained school employe to administer the school
9 entity's supply of bronchodilators when the school nurse is not
10 available. THE SCHOOL ENTITY'S SUPPLY OF BRONCHODILATORS. <--

11 (i) A school nurse or trained employe who is responsible for
12 the storage and administration of a bronchodilator under
13 subsection (h) shall successfully complete an annual training
14 course on the administration of a bronchodilator as designated
15 by the Department of Health.

16 (j) The following shall apply to the administration of a
17 school entity's supply of bronchodilators:

18 (1) A bronchodilator that meets the prescription on file for
19 a student or the school entity may be provided to and used by
20 the student who is authorized to self-administer the
21 bronchodilator or may be administered to the student by a school
22 nurse or trained school employe.

23 (2) When a student has not been diagnosed with asthma and
24 does not have a bronchodilator or a prescription for a
25 bronchodilator on file, a school nurse or trained school employe
26 may use a bronchodilator to respond to the student's respiratory
27 distress under a standing protocol from a physician or certified
28 registered nurse practitioner in accordance with this section.

29 (3) When a student has been diagnosed with asthma and the
30 student's personal bronchodilator is empty or temporarily

1 unavailable, a school nurse or a trained school employe may
2 administer a bronchodilator to respond to the student's asthma
3 episode or respiratory distress if all of the following apply:

4 (i) The student's parent or guardian has provided written
5 permission to the school entity for the student to be
6 administered a bronchodilator during the school year. The
7 student's parent or guardian may include the written permission
8 with a written request under section 1414.1(c) (2).

9 (ii) The student's parent or guardian has signed a statement
10 relieving the school entity and the school entity's employes and
11 agents, including a physician or certified registered nurse
12 practitioner who prescribes a bronchodilator, of any liability,
13 except in the case of gross negligence, as a result of an injury
14 arising from the administration of a bronchodilator.

15 (iii) The school entity has informed the student's parent or
16 guardian, in writing, that the school entity and the school
17 entity's employes and agents, including a physician or certified
18 registered nurse practitioner who prescribes a bronchodilator,
19 will not incur any liability, except in the case of gross
20 negligence, as a result of injury arising from the
21 administration of a bronchodilator.

22 (iv) The school entity has informed the student's parent or
23 guardian, in writing, that a bronchodilator is not to be used as
24 a replacement for a student bringing a prescribed asthma
25 medication to school.

26 (4) A metered dose inhaler shall be used with a valved
27 holding chamber or disposable mouthpiece to mitigate the spread
28 of disease during the administration of a bronchodilator under
29 this section. After the use of a valved holding chamber, under
30 this clause, a school nurse or trained employe shall, as per

1 manufacturer instructions, dispose of the disposable mouthpiece
2 or sanitize the valved holding chamber.

3 (k) A school entity shall MAY implement a reporting system <--
4 to notify a student's parent or guardian and health care
5 practitioner when a bronchodilator has been used by the student <--
6 at a school. The school entity may implement a recording system
7 to document each instance when a bronchodilator has been used by
8 a student and who administered the bronchodilator. ADMINISTERED <--
9 BY INDIVIDUALS DESIGNATED UNDER SUBSECTION (H). IF THE SCHOOL
10 ENTITY IMPLEMENTS A REPORTING SYSTEM, THE SYSTEM MUST DOCUMENT
11 WHO ADMINISTERED THE BRONCHODILATOR. If a student's respiratory
12 distress or asthma episode does not improve, a school nurse or <--
13 trained school employe shall contact 911 as soon as possible.

14 (l) The provisions of 42 Pa.C.S. §§ 8332 (relating to
15 emergency response provider and bystander good Samaritan civil
16 immunity) and 8337.1 (relating to civil immunity of school
17 officers or employees relating to emergency care, first aid and
18 rescue) shall apply to a school nurse or trained employe who
19 administers a bronchodilator and a physician or certified
20 registered nurse practitioner who prescribes a bronchodilator to
21 a school entity under this section.

22 (m) Administration of a bronchodilator under this section
23 shall comply with 29 U.S.C. § 794 (relating to nondiscrimination
24 under Federal grants and programs) and 22 Pa. Code Ch. 15
25 (relating to protected handicapped students).

26 (n) For purposes of this section, the following terms shall
27 have the following meanings:

28 "Asthma" means a chronic lung disease that inflames and
29 narrows the airways and causes recurring periods of wheezing,
30 chest tightness, shortness of breath and coughing. The term

1 includes reactive airway disease.

2 "Bronchodilator" means a medication used for the quick relief
3 of asthma symptoms that dilates the airways and is recommended
4 by the National Heart, Lung and Blood Institute's National
5 Asthma Education and Prevention Program Guidelines for the
6 Treatment of Asthma 2007 (EPR-3), including the 2020 Focused
7 Updates to Asthma Management Guidelines (December 2020). The
8 term includes an inhaled medication that contains a premeasured
9 single dose of albuterol or albuterol sulfate or by a pressured
10 metered dose inhaler with a valved holding chamber to treat
11 respiratory distress or asthma symptoms.

12 "Respiratory distress" means the perceived or actual presence
13 of wheezing, coughing, shortness of breath, chest tightness,
14 breathing difficulty or any other symptoms consistent with
15 asthma.

16 "School entity" means a school district, intermediate unit,
17 charter school, cyber charter school, regional charter school or
18 area career and technical school.

19 "Trained school employe" means a school employe who has
20 successfully completed an annual training course on the storage
21 and administration of a bronchodilator under subsection (i).

22 Section 2. This act shall take effect in 60 days.