

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2005

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HOUSE BILL 496
Committee Substitute Favorable 3/28/05

Short Title: Student Asthma Medications.

(Public)

Sponsors:

Referred to:

March 7, 2005

1 A BILL TO BE ENTITLED
2 AN ACT REQUIRING LOCAL SCHOOL BOARDS TO ADOPT POLICIES
3 PERMITTING STUDENTS WITH ASTHMA OR STUDENTS SUBJECT TO
4 ANAPHYLACTIC REACTIONS, OR BOTH, TO POSSESS AND
5 SELF-ADMINISTER ASTHMA MEDICATION, AND TO RECODIFY CERTAIN
6 STATUTES TO CREATE A NEW ARTICLE 26A IN CHAPTER 115C OF THE
7 GENERAL STATUTES.

8 The General Assembly of North Carolina enacts:

9 **SECTION 1.** Subchapter VI of Chapter 115C of the General Statutes is
10 amended by adding the following new Article to read:

11 "Article 26A.

12 "Special Medical Needs of Students.

13 **"§ 115C-375.2. Possession and self-administration of asthma medication by**
14 **students with asthma or students subject to anaphylactic reactions, or**
15 **both.**

16 (a) Local boards of education shall adopt a policy authorizing a student with
17 asthma or a student subject to anaphylactic reactions, or both, to possess and
18 self-administer asthma medication on school property during the school day, at
19 school-sponsored activities, or while in transit to or from school or school-sponsored
20 events. As used in this section, "asthma medication" means a medicine prescribed for
21 the treatment of asthma or anaphylactic reactions and includes a prescribed asthma
22 inhaler or epinephrine auto-injector. The policy shall include a requirement that the
23 student's parent or guardian provide to the school:

24 (1) Written authorization from the student's parent or guardian for the
25 student to possess and self-administer asthma medication.

26 (2) A written statement from the student's health care practitioner
27 verifying that the student has asthma or an allergy that could result in
28 an anaphylactic reaction, or both, and that the health care practitioner
29 prescribed medication for use on school property during the school

1 day, at school-sponsored activities, or while in transit to or from school
2 or school-sponsored events.

3 (3) A written statement from the student's health care practitioner who
4 prescribed the asthma medication that the student understands, has
5 been instructed in self-administration of the asthma medication, and
6 has demonstrated the skill level necessary to use the asthma
7 medication and any device that is necessary to administer the asthma
8 medication.

9 (4) A written treatment plan and written emergency protocol formulated
10 by the health care practitioner who prescribed the medicine for
11 managing the student's asthma or anaphylaxis episodes and for
12 medication use by the student.

13 (5) A statement provided by the school and signed by the student's parent
14 or guardian acknowledging that the local school administrative unit
15 and its employees and agents are not liable for an injury arising from a
16 student's possession and self-administration of asthma medication.

17 (6) Other requirements necessary to comply with State and federal laws.

18 (b) The student must demonstrate to the school nurse, or the nurse's designee, the
19 skill level necessary to use the asthma medication and any device that is necessary to
20 administer the medication.

21 (c) The student's parent or guardian shall provide to the school backup asthma
22 medication that shall be kept at the student's school in a location to which the student
23 has immediate access in the event of an asthma or anaphylaxis emergency.

24 (d) Information provided to the school by the student's parent or guardian shall be
25 kept on file at the student's school in a location easily accessible in the event of an
26 asthma or anaphylaxis emergency.

27 (e) If a student uses asthma medication prescribed for the student in a manner
28 other than as prescribed, a school may impose on the student disciplinary action
29 according to the school's disciplinary policy. A school may not impose disciplinary
30 action that limits or restricts the student's immediate access to the asthma medication.

31 (f) The requirement that permission granted for a student to possess and
32 self-administer asthma medication shall be effective only for the same school and for
33 365 calendar days and must be renewed annually.

34 (g) No local board of education, nor its members, employees, designees, agents,
35 or volunteers, shall be liable in civil damages to any party for any act authorized by this
36 subsection, or for any omission relating to that act, unless that act or omission amounts
37 to gross negligence, wanton conduct, or intentional wrongdoing."

38 **SECTION 2.(a)** G.S. 115C-307(c) reads as rewritten:

39 "(c) To Provide Some Medical Care to Students. – It is within the scope of duty of
40 teachers, including substitute teachers, teacher assistants, student teachers or any other
41 public school employee when given such authority by the board of education or its
42 designee, ~~(i) to administer any drugs or medication prescribed by a doctor upon written~~
43 ~~request of the parents, (ii) to give emergency health care when reasonably apparent~~
44 ~~circumstances indicate that any delay would seriously worsen the physical condition or~~

1 ~~endanger the life of the pupil, and (iii) to perform any other first aid or life saving~~
2 ~~techniques in which the employee has been trained in a program approved by the State~~
3 ~~Board of Education: Provided, that no one shall be required to administer drugs or~~
4 ~~medication or attend life saving techniques programs.~~

5 ~~Any public school employee, authorized by the board of education or its designee to~~
6 ~~act under (i), (ii), or (iii) above, shall not be liable in civil damages for any such~~
7 ~~authorized act or for any omission relating to such act unless such act or omission~~
8 ~~amounts to gross negligence, wanton conduct or intentional wrongdoing. Any person,~~
9 ~~-serving in a voluntary position at the request of or with the permission or consent of the~~
10 ~~board of education or its designee, who has been given the authority by the board of~~
11 ~~education or its designee to act under (ii) above shall not be liable in civil damages for~~
12 ~~any such authorized act or for any omission relating to such act unless the act amounts~~
13 ~~to gross negligence, wanton conduct or intentional wrongdoing.~~

14 ~~At the commencement of each school year, but prior to the beginning of classes, and~~
15 ~~thereafter as circumstances require, the principal of each school shall determine which~~
16 ~~persons will participate in the medical care program.~~designee to provide medical care to
17 students as provided in G.S. 115C-375.1."

18 **SECTION 2.(b)** Article 26A, as created in Section 1 of this act, is amended
19 by adding the following new section to read:

20 **"§ 115C-375.1. To provide some medical care to students.**

21 It is within the scope of duty of teachers, including substitute teachers, teacher
22 assistants, student teachers, or any other public school employee when authorized by the
23 board of education or its designee, (i) to administer any drugs or medication prescribed
24 by a doctor upon written request of the parents, (ii) to give emergency health care when
25 reasonably apparent circumstances indicate that any delay would seriously worsen the
26 physical condition or endanger the life of the pupil, and (iii) to perform any other first
27 aid or lifesaving techniques in which the employee has been trained in a program
28 approved by the State Board of Education. No employee, however, shall be required to
29 administer drugs or medication or attend lifesaving techniques programs.

30 Any public school employee, authorized by the board of education or its designee to
31 act under (i), (ii), or (iii) above, shall not be liable in civil damages for any authorized
32 act or for any omission relating to that act unless the act or omission amounts to gross
33 negligence, wanton conduct, or intentional wrongdoing. Any person, serving in a
34 voluntary position at the request of or with the permission or consent of the board of
35 education or its designee, who has been given the authority by the board of education or
36 its designee to act under (ii) above shall not be liable in civil damages for any
37 authorized act or for any omission relating to the act unless the act amounts to gross
38 negligence, wanton conduct, or intentional wrongdoing.

39 At the commencement of each school year, but before the beginning of classes, and
40 thereafter as circumstances require, the principal of each school shall determine which
41 persons will participate in the medical care program."

42 **SECTION 3.(a)** G.S. 115C-47(42) is recodified as G.S. 115C-375.3.

43 **SECTION 3.(b)** G.S. 115C-375.3, as established in subsection (a) of this
44 section, reads as rewritten:

1 **"§ 115C-375.3. ~~To Implement Guidelines to support and assist students with~~**
2 **~~diabetes.~~**

3 Local boards of education shall ensure that the guidelines adopted by the State
4 Board of Education under G.S. 115C- 12(31) are implemented in schools in which
5 students with diabetes are enrolled. In particular, the boards shall require the
6 implementation of the procedures set forth in those guidelines for the development and
7 implementation of individual diabetes care plans. Local boards also shall make available
8 necessary information and staff development to teachers and school personnel in order
9 to appropriately support and assist students with diabetes in accordance with their
10 individual diabetes care plans."

11 **SECTION 4.(a)** G.S. 115C-47(44) is recodified as G.S. 115C-375.4.

12 **SECTION 4.(b)** G.S. 115C-375.4, as established in subsection (a) of this
13 section, reads as rewritten:

14 **"§ 115C-375.4. ~~To Ensure that Schools Provide Information Concerning~~**
15 **~~Meningococcal Meningitis and Influenza and Their Vaccines.~~**

16 Local boards of education shall ensure that schools provide parents and guardians
17 with information about meningococcal meningitis and influenza and their vaccines at
18 the beginning of every school year. This information shall include the causes,
19 symptoms, and how meningococcal meningitis and influenza are spread and the places
20 where parents and guardians may obtain additional information and vaccinations for
21 their children."

22 **SECTION 5.** G.S. 115C-288(e) reads as rewritten:

23 "(e) To Discipline Students and to Assign Duties to Teachers with Regard to the
24 Discipline, General Well-being, and Medical Care of Students. – The principal shall
25 have authority to exercise discipline over the pupils of the school ~~pursuant to~~ under
26 policies adopted by the local board of education as prescribed by G.S. 115C-391(a). The
27 principal shall use reasonable force to discipline students ~~and shall assign duties to~~
28 ~~teachers with regard to the general well being and the medical care of students pursuant~~
29 ~~to the provisions of G.S. 115C 307 and 115C 390. The principal also under~~
30 G.S. 115C-390 and may suspend or dismiss pupils pursuant to the provisions of under
31 G.S. 115C-391. The principal shall assign duties to teachers with regard to the general
32 well-being and the medical care of students under G.S. 115C-307 and Article 26A of
33 this Chapter."

34 **SECTION 6.** The Department of Health and Human Services, Department
35 of Public Instruction, or other appropriate State agencies shall apply for any federal
36 grants for which the entity is eligible under 42 U.S.C. § 280g or other federal statutes or
37 regulations related to treating, preventing, or training on children's asthma.

38 **SECTION 7.** This act is effective when it becomes law. G.S. 115C-375.2,
39 as established in Section 1 of this act, applies beginning with the 2005-2006 school
40 year.