

(H. B. 1660)

(No. 56)

(Approved February 1, 2006)

AN ACT

To recognize the right of students that suffer from asthma or other related conditions to self administer medication in schools, upon previous consent of their parents, guardians or persons in charge.

STATEMENT OF MOTIVES

The Congress of the United States passed “Public Law 108-377-OCT. 30, 2004,” known as the Asthmatic School Children Treatment and Health Management Act of 2004.” This Act empowers the United States Secretary of Health to grant financial aid to the states and territories that adopt legislation to permit students to self administer medication for the treatment of any asthma related condition.

The statement of motives of said Act expresses that asthma is a chronic condition that requires treatment for life. It further indicates that over twenty million persons in the United States suffer from this condition. This situation entails thousands of visits to physicians and hospitals, absence from school and economic loss for absence to work.

In the case of students, the situation is worse since they often are forced to miss school because they are not allowed to self administer their medication. This causes that the student has to stay home under the supervision of an adult who is in turn unable to perform his/her daily duties which represents a financial loss for the person and for the company for which he/she works. In the case of a student, this represents in many cases

falling behind in his/her tasks and the possibility of losing the school semester.

Bronchial asthma is a lung disease that is characterized by episodes of wheezing with periods of relatively normal breathing. In general terms, bronchial asthma is intrinsic (its cause cannot be proven), but at times it is produced by a specific allergy (such as allergy to mold, dandruff and dust). Although most of the persons who suffer from asthma give positive results to some allergy tests, this does not necessarily represent the cause of the symptoms of this disease.

Symptoms may occur spontaneously or may be triggered by respiratory infections, exercise, cold air, tobacco smoke or other pollutants, stress or anxiety, allergy to food or to medicine. The airway muscles contract and the epithelium, which covers the airways swells, thus there is a reduction in the flow of air and a wheezing sound is produced. Likewise, there is an increase in the production of mucus.

The person breathes with relative normality with episodes of wheezing. An asthma attack may last for minutes or days and can become dangerous in the flow of air is restricted severely. This disease affects one out of every 20 persons of the total population, but there is an incidence of one out of ten children. Likewise it can develop in any stage of life and it would seem that some children cure with age. The risk factors are: family or personal history of eczema and allergies or family history of asthma.

In order to promote that students be permitted to self administer their medication for the treatment of asthma, "Public Law 108-377-OCT. 30, 2004," known as the Asthmatic School Children Treatment and Health Management Act of 2004," was passed. To the present approximately thirty states have passed legislation to address the problem of asthmatic students

who are not permitted to self administer the medication to treat their condition.

This Act has the purpose of recognizing the rights of students to self administer the medication needed to treat their asthmatic condition in school facilities. It is further provided that any person who interferes with the exercise of this right shall incur an administrative fault and shall be subject to the imposition of a fine.

BE IT ENACTED BY THE LEGISLATURE OF PUERTO RICO:

Section 1.- This Act shall be known as “Asthmatic School Children Treatment Act.”

Section 2.- Every public or private school student shall have the right to self administer medication for the treatment of his/her asthmatic condition upon previous consent of the parents, guardian or person in charge.

Section 3.- In coordination with the Secretary of Education, the Secretary of Health is hereby authorized to adopt the regulations needed for compliance with this Act and that when doing so, they take into consideration the safety and health of asthmatic students. In the regulations to be adopted by the Department of Health, the following shall be required:

- a. The minimum age for a student to be permitted to self administrate medication for asthma in school.
- b. Require that it be certified that the asthmatic student received the adequate training by a qualified health professional on the correct and responsible use of the medication, including: type of medication, method and procedure for its self administration, dosage for self administration, time and frequency of self

administration, instruction for handling and safe ways of storing the medication.

- c. Require that the parent or guardian of the student has authorized, in writing, that the student possess and use the medication while in school or in an activity sponsored by the school.
- d. Require that any student who suffers from asthma has an action plan for asthma management in writing, prepared by his/her primary physician and for the use of the medication needed during school hours.

Section 4.- In order for a student to self administer medications for the treatment of his/her asthma condition, it shall be a requirement to present a medical certificate that certifies that he/she suffers from the condition, the medication to be used for the treatment thereof and that he/she has been duly trained to self administer the medication.

This certificate shall apply at the school in which the student is enrolled and during the school year for which it was issued. If the student is transferred to another school, a copy of the documents shall be presented in the new school in which he/she is enrolled. Furthermore, at the beginning of every school year, it shall be the responsibility of the parent, guardian or tutor to present the updated documents in order for the student to enjoy said right.

Section 5.- No school or person shall interfere with the right of students to use the medication needed for the management of their asthma condition in school facilities. A person who acts in accordance with the provisions of this Act shall not incur civil liability in the event that a

complication should arise due to the use of the medication that is self administered by the student.

Section 6.- This Act shall take effect immediately after its approval.

CERTIFICATION

I hereby certify to the Secretary of State that the following Act No. 56 (H.B. 1660) of the 3rd Session of the 15th Legislature of Puerto Rico:

AN ACT to recognize the right of students that suffer from asthma or other related conditions to self administer medication in schools, upon previous consent of their parents, guardians or persons in charge,

has been translated from Spanish to English and that the English version is correct.

In San Juan, Puerto Rico, today 27th of November of 2006.

Francisco J. Domenech
Director