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## SENATE COMMITTEE ON EDUCATION

Senator Connie Leyva, Chair

2019 - 2020 Regular

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**Bill No:** AB 743 **Hearing Date:** June 5, 2019  
**Author:** Eduardo Garcia  
**Version:** April 22, 2019  
**Urgency:** No **Fiscal:** No  
**Consultant:** Brandon Darnell

**Subject:** Pupil health: self-administration of prescribed asthma medication.

**NOTE:** This bill has been double-referred to the Committees on Education and Judiciary. A "do pass" motion should include referral to the Committee on Judiciary.

### SUMMARY

This bill requires a school district to accept the written statement from a physician who is contracted with a binational health plan for the purposes of authorizing a pupil to carry and self-administer prescribed inhaled asthma medication that the pupil needs to administer during the regular schoolday.

### BACKGROUND

- 1) Requires, in order for a pupil to be assisted by a school nurse or other school personnel, or for the pupil to carry and self-administer prescription inhaled asthma medication, a school district to obtain both a written statement from the physician or surgeon detailing the name of the medication, method, amount, and time schedules by which the medication is to be taken, and confirming that the pupil is able to self-administer inhaled asthma medication, and a written statement from the parent, foster parent, or guardian of the pupil consenting to the self-administration, providing a release for the school nurse or other designated school personnel to consult with the health care provider of the pupil regarding any questions that may arise with regard to the medication, and releasing the school district and school personnel from civil liability if the self-administering pupil suffers an adverse reaction by taking medication pursuant to this section. (EC § 49423.1)
- 2) Authorizes, through regulations, a local education agency to establish specifications for the authorized health care provider's written statement, required as per (1) above, in order to ensure that:
  - a) The pupil is clearly identified.
  - b) The medication is clearly identified.
  - c) The dosage is clearly specified.
  - d) The period of time during which the medication is to be taken is clearly specified.

- e) Other information is obtained that is relevant to administering the medication to the pupil, or otherwise assisting the pupil in the administration of the medication.
  - f) An amended or new written statement is provided annually and whenever there is a change in the pupil's authorized health care provider, or a change in the medication, dosage, method by which the medication is required to be taken, or dates or times the medication is to be taken. (California Code of Regulation, Title 5, Section 602)
- 3) The Nursing Practice Act sets forth the scope of practice for nursing, which specifically includes the administration of medication. (Business & Professions Code § 2725)
  - 4) Requires a prepaid health plan operating lawfully under the laws of Mexico, that elects to operate a health care service plan in California, to apply for licensure as a health care service plan, and to comply with specified requirements, including that the prepaid health plan offers and sells in California only employer-sponsored group plan contracts exclusively for Mexican nationals legally employed in San Diego or Imperial counties, and for their dependents regardless of nationality. Requires that the health plan pay for, reimburse the cost of, or arrange for the provision or delivery of health care services that are provided or delivered wholly in Mexico, other than for emergency or urgent care services. (Health and Safety Code § 1351.2)

## ANALYSIS

This bill requires a school district to accept the written statement from a physician who is contracted with a binational health plan for the purposes of authorizing a pupil to carry and self-administer prescribed inhaled asthma medication that the pupil needs to administer during the regular schoolday. Specifically, this bill:

- 1) Requires a school district to accept the written statement from a physician or surgeon who is contracted with a binational licensed health plan.
- 2) Requires the written statement specified to be provided in both English and Spanish, and shall include the name and contact information for the physician or surgeon.
- 3) Exempts a school nurse or other school personnel shall from professional review, liability in a civil action, or criminal prosecution for their acts or omissions relating to a pupil self-administering inhaled asthma medication pursuant to the bill's provisions.
- 4) Exempts a school district shall from civil liability if a pupil self-administering inhaled asthma medication pursuant to the bill's provisions suffers an adverse reaction.

## STAFF COMMENTS

- 1) ***Need for the bill.*** According to the author, “In border towns, entities such as the Imperial County Office of Education (ICOE), County of Imperial and many others offer their employees bi-national insurance. Meaning they can choose to receive health care in the United States or Mexico. Due to the higher cost of health care in the US, several employees opt to receive care for themselves and their children in Mexico.

Current school medical policies and practices fail to recognize the disparity between those afforded the opportunity of having domestic medical coverage and those that have no other choice but to travel to Mexico to receive care. Parents have been told, due to state and school policy, that prescribed medications from Mexico are not allowed.

Therefore, parents are being forced in these cases to seek a second opinion with a US doctor at an additional out of pocket expense. This leaves the potential for children to face a life threatening situation such as asthma if they do not have access to medication prescribed by an out of state doctor. It was brought to our attention that children with asthma have had to be rushed to the hospital because they were restricted access to their inhaler.”

- 2) ***High incidence of asthma in border communities.*** According to the Lucile Packard Foundation for Children’s Health, “asthma is one of the most common chronic diseases among children in the U.S. and a leading cause of hospitalizations and absences from school. Asthma rates vary by region, demographics, environment, physician diagnostic practices, and access to care. Although identifying the impact of independent risk factors for asthma is difficult, low-income and minority children are at disproportionately high risk for severe symptoms, missed school days, and emergency room visits due to asthma. Asthma sufferers often manage symptoms with medication, trigger avoidance, and regular medical monitoring. However, children who face cost barriers to medication or treatment are less likely to have well-controlled asthma than children with access to regular medical care, and may repeatedly be absent from school when their asthma flares up.”

The KidsData website, citing data from 2015-16, reports that the rate of children ever diagnosed with asthma is higher in Imperial County (23.2 percent) versus California as a whole (15.2 percent). California Environmental Health Tracking Program data shows 143 per 10,000, asthma-related emergency room visits for children ages 5-17, in Imperial County in 2016, versus 68 per 10,000 such visits for children in California as a whole.

- 3) ***Binational health insurance.*** According to a 2013 study, “Informing public policy toward binational health insurance: Empirical evidence from California,” “binational health insurance (BHI) between the United States and Mexico is a potential way to provide health insurance to the uninsured residing in the United States near the border, particularly uninsured immigrants from Mexico. Many individuals are uninsured, because health insurance premiums are unaffordable. BHI premiums may have the potential to be more affordable than conventional insurance premiums, because Mexico-based health care providers likely have lower reimbursement rates than United States-based providers. The premium

savings from binational health insurance (BHI) plans will largely depend on the magnitudes of the provider reimbursement rate differences, as well as the share of enrollees' health care utilization that takes place Mexico.

Commercial BHI health insurance plans have been available in California since 2000. In 2010, based on the authors' estimates from contacting BHI plans and evaluating public records, there were approximately 120,000 enrollees within BHI plans."

- 4) Previous legislation. SB 1266 (Huff, Chapter 321, Statutes of 2014) requires school districts, county offices of education, and charter schools to provide emergency epinephrine auto-injectors to school nurses or trained personnel who have volunteered, as specified. Authorizes school nurses or trained personnel to use the epinephrine auto-injectors to provide emergency medical aid to persons suffering, or reasonably believed to be suffering, from an anaphylactic reaction.

SB 1912 (Ashburn, Chapter 846, Statutes of 2004) permits pupils to carry and auto-injectable epinephrine medication at school, or to receive assistance from school personnel, as specified, if the school district receives written statements, as specified.

AB 2132 (Reyes, Chapter 832, Statutes of 2004) authorizes a pupil to carry and self-administer medication, including inhaled asthma medication, or to receive assistance from school personnel, as specified, if the school district receives written statements, as specified.

**SUPPORT**

Brawley Elementary School District  
Comite Civico Del Valle, Inc.  
Disability Rights California  
Meadows Union School District

**OPPOSITION**

None received

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