

# State of South Dakota

EIGHTY-FIFTH SESSION  
LEGISLATIVE ASSEMBLY, 2010

652R0274

## SENATE HEALTH AND HUMAN SERVICES ENGROSSED NO. **SB 83** - 2/3/2010

Introduced by: Senators Jerstad, Abdallah, Adelstein, Fryslie, Hanson (Gary), Merchant, Miles, Peterson, Rhoden, Tieszen, and Turbak Berry and Representatives Rave, Elliott, Engels, Gibson, Hamiel, Noem, Nygaard, Rounds, and Schlekeway

1 FOR AN ACT ENTITLED, An Act to provide for the self-administration of prescription asthma  
2 and anaphylaxis medication by students.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. Terms used in this Act mean:

- 5 (1) "Medication," inhaled bronchodilator or auto-injectable epinephrine, or both;
- 6 (2) "Parent," any person standing in parental relation;
- 7 (3) "School," any public or nonpublic school;
- 8 (4) "Self-administration of prescription medication," a student's discretionary use of  
9 prescription asthma or anaphylaxis medication, or both.

10 Section 2. Any student with asthma or anaphylaxis may possess and self-administer  
11 prescription medication while on school property or at a school-related event or activity if:

- 12 (1) The prescription medication has been prescribed for that student as indicated by the  
13 prescription label on the medication;



- 1       (2)    The self-administration is done in compliance with the prescription or written
- 2            instructions from the student's physician or other licensed health care provider; and
- 3       (3)    A parent of the student provides to the school:
- 4            (a)    Written authorization, signed by the parent, for the student to self-administer
- 5                prescription medication while on school property or at a school-related event
- 6                or activity;
- 7            (b)    A written statement, signed by the parent, in which the parent releases the
- 8                school district and its employees and agents from liability for an injury arising
- 9                from the student's self-administration of prescription medication while on
- 10              school property or at a school-related event or activity unless in cases of
- 11              wanton or willful misconduct;
- 12            (c)    A written statement from the student's physician or other licensed health care
- 13                provider, signed by the physician or provider, that states:
- 14              (i)    The student has asthma or anaphylaxis or both, and is capable of self-
- 15                administering the prescription medication;
- 16              (ii)   The name and purpose of the medication;
- 17              (iii)  The prescribed dosage for the medication;
- 18              (iv)   The times at which or circumstances under which the medication may
- 19                be administered; and
- 20              (v)    The period for which the medication is prescribed.

21        The physician's or provider's statement must be kept on file in the office of the school nurse

22        of the school the student attends or, if there is not a school nurse, in the office of the principal

23        of the school the student attends.

24        Section 3. If any student uses the medication in a manner other than prescribed, the student

1 may be subject to disciplinary action by the school. However, the disciplinary action may not  
2 limit or restrict the student's immediate access to the medication.

3 Section 4. The provisions of this Act do not apply to any of the following group living  
4 environments:

- 5 (1) A facility operated by the Department of Corrections;
- 6 (2) A facility operated by the Department of Human Services;
- 7 (3) A group care or residential treatment facility licensed by the Department of Social  
8 Services;
- 9 (4) A residential treatment facility accredited by the Department of Human Services;
- 10 (5) A community support provider as defined in § 27B-1-17;
- 11 (6) An intermediate care facility for the mentally retarded;
- 12 (7) A juvenile detention center or holding facility operated by a county; or
- 13 (8) A hospital or health care facility as defined in § 34-12-1.1.