

SB 322 - AS INTRODUCED

2016 SESSION

16-2831

04/03

SENATE BILL           **322**

AN ACT               relative to the provision and administration of bronchodilators, spacers, and nebulizers in schools.

SPONSORS:         Sen. Sanborn, Dist 9; Sen. Avard, Dist 12; Sen. Boutin, Dist 16; Sen. Kelly, Dist 10; Sen. Reagan, Dist 17; Sen. Watters, Dist 4; Sen. Woodburn, Dist 1

COMMITTEE:        Education

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ANALYSIS

This bill establishes procedures for the provision and administration of bronchodilators, spacers, or nebulizers to students in school.

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Explanation:        Matter added to current law appears in ***bold italics***.  
                          Matter removed from current law appears [~~in brackets and struck through.~~]  
                          Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

STATE OF NEW HAMPSHIRE

*In the Year of Our Lord Two Thousand Sixteen*

AN ACT relative to the provision and administration of bronchodilators, spacers, and nebulizers in schools.

*Be it Enacted by the Senate and House of Representatives in General Court convened:*

1 1 New Subdivision; Bronchodilators, Spacers, and Nebulizers in Schools. Amend RSA 200 by  
2 inserting after section 52 the following new subdivision:

3 Bronchodilators, Spacers, and Nebulizers in Schools

4 200:53 Definitions. In this subdivision:

5 I. "Administer" means the direct provision of a bronchodilator, spacer, or nebulizer to an  
6 individual.

7 II. "Asthma" means a chronic lung disease that inflames and narrows the airways. It  
8 causes recurring periods of wheezing, chest tightness, shortness of breath, and coughing. For the  
9 purpose of this subdivision, "asthma" also includes "reactive airway disease," commonly referred to  
10 as RAD.

11 III. "Bronchodilator" means any medication used for the quick relief of asthma symptoms  
12 that dilates the airways and is recommended by the National Heart, Lung, and Blood Institute's  
13 national asthma education and prevention program guidelines for the treatment of asthma, such  
14 bronchodilators may include an orally inhaled medication that contains a premeasured single dose  
15 of albuterol or albuterol sulfate delivered by a nebulizer (compressor device), or by a pressured  
16 metered dose inhaler used to treat respiratory distress, including, but not limited to, wheezing,  
17 shortness of breath, and difficulty breathing or another dosage of a bronchodilator recommended in  
18 the guidelines for the treatment of asthma.

19 IV. "Designated unlicensed assistive personnel" means a school employee, agent, or  
20 volunteer of a school designated by the school nurse, who has completed the New Hampshire School  
21 Nurses' Association approved training required to provide or administer bronchodilators, spacers, or  
22 nebulizers. Designated unlicensed assistive personnel shall complete an asthma training program  
23 prior to providing or administering a bronchodilator, spacer, or nebulizer made available by the  
24 school nurse and at least annually following completion of the initial asthma training program.  
25 Such training shall be conducted by the school nurse based on resources provided by the New  
26 Hampshire School Nurses' Association, the National Association of School Nurses, and the  
27 American Lung Association. Training shall be conducted in person and at a minimum shall address  
28 techniques on how to recognize symptoms of severe respiratory distress or asthma, and standards  
29 and procedures for the storage and administration of a bronchodilator with a spacer or nebulizer.  
30 The school nurse shall maintain a current list of those individuals who have successfully completed

1 the asthma training program.

2 V. "Health care practitioner" means a person who is licensed to prescribe, administer, or  
3 distribute controlled drugs.

4 VI. "Provide" means to supply a bronchodilator to an individual.

5 VII. "School" means any public or private elementary, middle, junior high, or senior high  
6 school.

7 VIII. "School nurse" means a registered nurse (RN) licensed by the New Hampshire board  
8 of nursing employed by a school district or a school.

9 IX. "Self-administration" means a student or other person's discretionary use of a  
10 bronchodilator, spacer, or nebulizer, whether provided by the student or by a school nurse or  
11 designated school personnel pursuant to this subdivision.

12 200:54 Supply of Bronchodilators, Spacers, or Nebulizers.

13 I. A school board may authorize a school nurse who is employed by the school district and  
14 for whom the board is responsible to maintain a supply of asthma-related rescue medications at the  
15 school. The nurse shall recommend to the school board the quantity of medication the school should  
16 maintain.

17 II. To obtain asthma rescue medications for a school district, a health care practitioner may  
18 prescribe bronchodilators, spacers, or nebulizers in the name of a school district for use in asthma  
19 emergency situations.

20 III. A pharmacist may dispense bronchodilators, spacers, or nebulizers pursuant to a  
21 prescription issued in the name of a school. A school, under the direction of the school nurse, may  
22 maintain a supply of bronchodilators, spacers, or nebulizers for use in accordance with this  
23 subdivision.

24 IV. A school may enter into an agreement with a manufacturer of bronchodilators, spacers,  
25 or nebulizers, third-party suppliers of bronchodilators, spacers, or nebulizers, or health care offices  
26 to obtain bronchodilators, spacers, or nebulizers at no charge or at fair-market prices or at reduced  
27 prices. A school district may accept gifts, grants or donations from foundations, organizations, or  
28 private parties to purchase bronchodilators, spacers, or nebulizers.

29 V. A school that possesses and makes available a supply of bronchodilators, spacers, or  
30 nebulizers pursuant to this subdivision shall maintain an annual report summarizing the use of the  
31 bronchodilators, spacers, or nebulizers.

32 200:55 Administration of Bronchodilator, Spacer, or Nebulizer.

33 I. A school nurse and designated unlicensed assistive personnel may administer a  
34 bronchodilator, spacer, or nebulizer to a student who has been diagnosed with asthma for use in  
35 emergency or other situations as determined by the school nurse provided that:

36 (a) The school has on file an asthma action plan for the student which shall be filed  
37 annually and updated as necessary with the school and includes an order from the student's health  
38 care provider to provide the student with an asthma rescue inhaler, including dosage information

1 and permission for the student to use the school's stock in the event of an emergency; and

2 (b) The student's parent/guardian has provided written permission to the school nurse to  
3 administer a bronchodilator, spacer, or nebulizer from the school's supply.

4 II. The school nurse shall notify the student's parent or legal guardian whenever a  
5 bronchodilator, spacer, or nebulizer is administered to a student. The school nurse shall make the  
6 notification as soon as practicable in accordance with the contact information on file at the school.

7 200:56 Department of Education Guidance Provided to Schools. No later than 90 days  
8 following the effective date of this section, the department of education, in consultation with the  
9 New Hampshire School Nurses' Association and the American Lung Association, shall provide  
10 guidelines to all schools for the management of students with asthma. The guidelines shall include,  
11 but not be limited to, implementation of education and training for designated unlicensed assistive  
12 personnel on the management of students with asthma, including training related to the  
13 administration of a bronchodilator with a spacer or nebulizer, and procedures for responding to life-  
14 threatening respiratory distress.

15 200:57 Immunity.

16 I. No school district, school district employee, member of a school board, school nurse,  
17 designated unlicensed assistive personnel, or agent or volunteer of a school district shall be liable in  
18 a suit for damages as a result of any act or omission related to a student's use of a bronchodilator,  
19 spacer, or nebulizer pursuant to this subdivision, except for damages caused by willful or wanton  
20 conduct or disregard of the requirements established in this subdivision.

21 II. The administration of a bronchodilator, spacer, or nebulizer in accordance with this  
22 subdivision shall be considered to be the administration of emergency medication in school. If  
23 delegated the task of administering a bronchodilator, spacer, or nebulizer by a school nurse, the  
24 designated unlicensed assistive personnel shall not require licensure as a health care provider.

25 III. This section shall not be construed to eliminate, limit, or reduce any other immunity or  
26 defense that may be available under state law.

27 2 Regulation of Pharmacies; Dealing in or Possessing Drugs. Amend RSA 318:42, VII-a to read  
28 as follows:

29 VII-a.(a) The possession and administration, with written parental authorization, of flu  
30 vaccine, immunizations, and mantoux tests for the purpose of disease prevention and tuberculosis  
31 screening by registered nurses employed or contracted by public school systems.

32 (b) The possession and administration of epinephrine for the emergency treatment of  
33 anaphylaxis by licensed practical nurses or registered nurses employed or contracted by public  
34 school systems or by licensed campus medical professionals in postsecondary educational  
35 institutions.

36 (c) *The possession, provision, and administration of a bronchodilator, spacer,*  
37 *or nebulizer by a school nurse or designated unlicensed assistive personnel pursuant to*  
38 *RSA 200:53 through RSA 200-57.*

1        3 Effective Date. This act shall take effect 60 days after its passage.