

ACT 19

H.B. NO. 2198

A Bill for an Act Relating to School Health.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Chapter 302A, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

“§302A- Self-administration of medication by student permitted. (a) The department shall permit the self-administration of medication by a student for asthma, anaphylaxis, or other potentially life-threatening illnesses; provided that:

- (1) The student’s parent or guardian shall provide the department with written authorization for the self-administration of medication;
- (2) The student’s parent or guardian shall provide the department with written certification from the student’s physician stating that the student:
 - (A) Has asthma, anaphylaxis, or another potentially life-threatening illness; and
 - (B) Is capable of, and has been instructed in, the proper method of self-administration of medication;

- (3) The department shall inform the student's parent or guardian in writing that the department and its employees or agents shall not incur any liability as a result of any injury arising from the self-administration of medication by the student;
- (4) The student's parent or guardian shall sign a statement acknowledging that:
 - (A) The department and its employees or agents shall not incur any liability as a result of any injury arising from the self-administration of medication by the student; and
 - (B) The parent or guardian shall indemnify and hold harmless the department and its employees or agents against any claims arising out of the self-administration of medication by the student; and
- (5) The permission shall be effective for the school year for which it is granted and shall be renewed for each subsequent school year upon the fulfillment of the requirements in paragraphs (1) through (4).

(b) Notwithstanding any other law to the contrary, a student who is permitted to self-administer medication under this section shall be permitted to carry an inhaler or auto-injectable epinephrine, or both, at all times if the student does not endanger the student's person or other persons through the misuse of the inhaler; provided that the department, its employees or agents may confiscate a student's medication, inhaler, or auto-injectable epinephrine if the student's self-administration of the medication exceeds the student's prescribed dosage, or if the student endangers others with the student's medication, inhaler, or auto-injectable epinephrine.

For the purposes of this section, the term "inhaler" includes:

- (1) Metered-dose, breath-actuated, and dry powder inhalers; and
- (2) Spacers and holding chambers.

(c) Any person who acts in accordance with the requirements of this section shall be immune from any civil or criminal liability arising from these acts, except where the person's conduct would constitute gross negligence, wilful and wanton misconduct, or intentional misconduct."

SECTION 2. New statutory material is underscored.¹

SECTION 3. This Act shall take effect upon its approval.

(Approved April 26, 2004.)

Note

1. Edited pursuant to HRS §23G-16.5.