

Date of Hearing: July 12, 2023

ASSEMBLY COMMITTEE ON EDUCATION
Al Muratsuchi, Chair
SB 283 (Ochoa Bogh) – As Amended March 23, 2023

SENATE VOTE: 40-0

SUBJECT: Pupil health: asthma management

SUMMARY: Requires all local educational agencies (LEAs) to adopt a comprehensive asthma management plan by the start of the 2024-25 school year. Specifically, **this bill:**

- 1) Requires LEAs to adopt a comprehensive asthma management plan by the start of the 2024-25 school year that includes a plan for the following:
 - a) Identifying students with asthma;
 - b) Creating individualized asthma plans for those students with asthma;
 - c) Providing professional development for school staff that includes information about symptoms and common triggers of asthma, ways to reduce acute symptoms, and emergency response procedures.
- 2) Authorizes LEAs to meet the requirement in (1) if they have previously adopted an asthma management plan meeting these provisions.
- 3) Defines “local educational agency” as a school district, county office of education (COE), or charter school.

EXISTING LAW:

- 1) Authorizes students to carry and self-administer inhaled asthma medication during the schoolday if specified materials in writing are submitted to the LEA. (Education Code (EC) 49423.1)
- 2) Requires a school district, in order for a student to carry and self-administer prescription inhaled asthma medication, to obtain a written statement from the physician detailing the name of the medication, method, amount, and time schedules by which the medication is to be taken, and confirming that the student is able to self-administer inhaled asthma medication, and a written statement from the parent or guardian 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 student 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 student suffers an adverse reaction. (EC 49423.1)
- 3) Establishes the Office of School-Based Health at the California Department of Education (CDE) for the purpose of assisting LEAs regarding the current health-related programs under the purview of the CDE, and requires the scope of the office to include collaborating with the Department of Health Care Services (DHCS) and other departments in the provision of

school-based health services, and assisting LEAs with information on, and participation in specified school-based health programs. (EC 49419)

- 4) Requires the governing board of any school district to give diligent care to the health and physical development of pupils, and authorizes it to employ properly certified persons to conduct this work. (EC 49400)
- 5) Expresses the policy of the state that school facilities provide healthy indoor air quality, including adequate ventilation, to students, teachers, and other occupants in order to protect health, reduce sick days, and improve student productivity and performance. (EC 17660)
- 6) Authorizes the use of modernization and new facility construction apportionments to promote indoor air quality, including by installing or updating air filtration systems to limit student exposure to harmful air pollutants. (EC 17072.35 and 17074.25)
- 7) In federal law, establishes the Individuals with Disabilities Education Act (IDEA), in order to ensure that all children with disabilities have a free appropriate public education (FAPE) that emphasizes special education and related services designed to meet their unique needs and prepare them for further education, employment, and independent living, among other purposes. (20 U.S.C. Section 1400)
- 8) In federal law, the Rehabilitation Act of 1973, prohibits an individual with a disability, as defined, from, solely by reason of his or her disability, being excluded from the participation in, being denied the benefits of, or being subjected to discrimination under any program or activity receiving federal financial assistance. (29 U.S.C. Section 794)

FISCAL EFFECT: According to the Senate Appropriations Committee: “By requiring LEAs to adopt comprehensive asthma management plans, this bill could result in a reimbursable state mandate. The Proposition 98 General Fund costs are estimated to be in the hundreds of thousands to low millions of dollars each year and would create additional cost pressure on the K-12 Mandates Block Grant.”

COMMENTS:

Need for the bill. According to the author, “With asthma on the rise, it is imperative that school districts provide school staff with education and support services so they can quickly identify and assist students with asthma. SB 283 will provide reassurance to students with asthma and their parents during school hours and could possibly save lives.”

Asthma in school-aged children. Asthma is a chronic lung disease and the leading cause of absenteeism for students. It affects 10% of school-aged children nationwide and accounts for 5.2 million absences annually. The California Department of Public Health (CDPH) reports that in 2019-2020, 14.5% of children ages 5 through 17 had been diagnosed with asthma by a healthcare provider. Children between the ages of 5-17 years experienced 58.4 asthma-related visits to emergency departments in 2019 per 10,000 persons, compared to a rate of 42.6 for all ages. While rare, the recorded asthma death rates per one million state residents from 2017 through 2019 were 1.1 for children ages 0-17 and 11.5 for adults 18 years of age and older.

Asthma often starts during childhood as children's immune systems are still developing. While the exact cause of asthma is unknown, certain factors combined can contribute to a child developing asthma including:

- Family history (parent or sibling having asthma);
- Exposure to things in the environment (allergens such as cigarette smoke or pollution); and
- Viral infections (which affect the lungs).

Asthma can also be triggered or set off by various elements such as:

- Indoor allergens (pet dander or dust mites);
- Outdoor allergens (mold or pollens);
- Physical activity;
- Infections (colds, influenza, or COVID-19);
- Poor air quality or very cold air; and
- Certain medications such as pain relievers.

Management of symptoms for asthma. While there is no cure for asthma, treatment meant to alleviate symptoms include quick relief and long-term treatments. Treatments range from taking pills, utilizing a nebulizer (a machine that turns liquid medicine into mist to be more easily inhaled), to using an inhaler (a handheld, portable device that delivers medication to the user's lungs).

Long-term medication for asthma is known as controller medication and is taken daily as an inhaled corticosteroid utilizing an inhaler. Taken consistently, corticosteroids decreases inflammation in the airways of the lungs and helps to prevent asthma flare-ups, and are considered the most effective long-term medication for control and management of asthma.

Quick relief or "rescue medication" rapidly opens the airways of the lungs and relieves symptoms during an asthma flare-up. Bronchodilator medications such as long-acting beta-agonists (LABAs) can be combined with a corticosteroid in order to relax the muscles lining the airways that carry air to the lungs allowing the tubes to remain open and making breathing easier.

Guidance for managing asthma in schools. "Guidelines for the Management of Asthma in California Schools" was developed jointly by health professionals in the CDE and the California Asthma Public Health Initiative in statewide collaboration with asthma experts and stakeholders. Available resources through CDPH also include a "My Asthma Plan" form, available in multiple languages, to be completed by a school nurse in collaboration with a student's physician and parent or guardian, detailing the student's specific symptoms, medications, and actions to be taken when asthma symptoms are present.

The CDPH guidance suggests that an asthma management program at a school encompass the following key action items:

- Establishing a team to develop, implement, and monitor the asthma management program;
- Identify and track students who have asthma; and
- Provide care, support services, and resources for students who have asthma.

The report notes that effective school asthma management programs can produce the following positive results:

- A healthier and supportive learning environment for students with asthma;
- Reduced absences due to students having fewer asthma attacks as a result of symptoms being treated earlier;
- Students may have fewer symptoms and be more alert in the classroom when their asthma is under control;
- Appropriate emergency response as school staff know how to recognize and respond to asthma emergencies;
- Improved access and adherence to appropriate asthma medications; and
- Full student participation in physical activities as teachers and coaches know how to prevent exercise-induced asthma or how to respond if symptoms appear.

The California School Boards Association (CSBA) offers sample district policies on asthma management. This bill requires schools to develop comprehensive asthma plans as well as to create individualized asthma plans for those students with asthma. CSBA offers sample policy templates that a board may use to develop asthma management plans, covering the following topics:

- Identification of students with asthma;
- Individualized asthma management;
- Education/professional development and support services; and
- Environmental assessment.

Meeting the needs of students with asthma. When a current student has been diagnosed with asthma or when the student registers for school, school officials assess whether the student is identified as disabled, pursuant to Section 504 or the IDEA, or if the student requires an asthma action plan. These are discussed in the following sections.

Individual education program (IEP). The IDEA is the primary federal program that authorizes state and local aid for special education and related services for children with disabilities. To qualify for an IEP, a student must meet two criteria: the student must have a disability that

affects their ability to learn or access education; and the student must require special education services in order to make progress in their education. IDEA covers 13 disability categories, one of which is “other health impairment.” In order for a student with asthma to qualify for an IEP, a determination would have to be made that the condition impacts their ability to learn.

504 plans. Section 504 of the Rehabilitation Act of 1973 prohibits an individual with a disability in the United States, as defined, from, solely by reason of his or her disability, being excluded from the participation in, being denied the benefits of, or being subjected to discrimination under any program or activity receiving federal financial assistance, including public schools. Section 504 regulations require that public schools provide a free appropriate public education (FAPE) to qualified students in their jurisdictions who have a physical or mental impairment that substantially limits one or more major life activities.

To be protected under Section 504, a student must be determined to 1) have a physical or mental impairment that substantially limits one or more major life activities, 2) have a record of such an impairment, or 3) be regarded as having such an impairment. Major life activities include activities such as walking, seeing, hearing, speaking, breathing, working, performing manual tasks, and learning. Unlike under IDEA, students do not need to have one of a list of specified disabling conditions. Some students who do not qualify for an IEP under the IDEA may qualify for a 504 plan. Process requirements for the development of 504 plans are less specific than IEPs in several ways.

The determination that a student has a “substantial limitation” must be made on an individualized basis. Section 504 requires that a group of knowledgeable persons (sometimes constituted as a team) draw upon information from a variety of sources in making this determination. Unlike under the IDEA, the composition of group is not specified. This team develops a 504 plan which delineates the services and/or changes to the learning environment required to meet the needs of the child as adequately as other students.

Individualized School Healthcare Plans. Children with a chronic health condition, such as asthma, who do not qualify for an IEP or 504 plan may require an Individualized Health and Support Plan (IHSP), often referred to as a care plan. Under specified conditions, schools can be reimbursed for a portion of the cost of services provided to a student under a care plan, particularly if the student is eligible for Medi-Cal. According to the Department of Health Care Services (DHCS), a care plan should identify the healthcare needs of the student, and include, at minimum:

- Medical necessity for services authorized by a medical practitioner;
- Treatment services to be provided to the student;
- Plan for the duration and frequency of services;
- Necessary training, supervision, and monitoring of designated school staff;
- Plan for evaluating and reporting outcomes and changes; and
- A method to ensure and document safe, consistent provision of services to the student.

Schools have practices in place to respond to students with asthma. According to the California School Nurses Organization (CSNO), in the case of a student with asthma, the student's individualized health plan is typically based upon the "My Asthma Plan" form noted above. As the parent notifies the school that a student has asthma, the school nurse, assigned to that school, reaches out to the parent for a health history and contact information for the student's physician. Once the asthma plan is completed, and approved by the parent, the school nurse generally shares the plan with the parent, the school secretary, the student's teacher(s), including the physical education teacher.

The CSNO offers a training module for school nurses, or other school staff, on asthma care. They note that as each student's asthma situation is unique, the best practice is to complete the individual asthma action plans, rather than requiring a schoolwide plan.

Recommended Committee Amendments. Staff recommends that the bill be amended as follows:

- 1) Remove codified naming of section as "Adilene's Law" and reference in an uncoded section.
- 2) Remove the requirement for all LEAs to adopt a comprehensive asthma management plan.
- 3) Require LEAs, upon notification from the parent or guardian that a student has asthma, to develop an individualized asthma action plan for that student.
- 4) Encourage LEAs to provide professional development on asthma to employees with connection to students with asthma.

Arguments in support. According to Regional Asthma Management and Prevention (RAMP), "Asthma is one of the most common chronic diseases among school aged children, with about 12% of children under 18 diagnosed with asthma. In most cases, proper asthma management, including quality clinical care and reducing exposure to environmental asthma triggers, can prevent the severe exacerbations that cause emergency department visits and hospitalizations. Because children spend a significant part of their day at schools, schools are vital partners in helping students properly manage their asthma. That is why RAMP and many of our partners across the state have worked with schools to implement a range of strategies to better support students with asthma. Comprehensive asthma management plans are a great tool to identify the needs of students with asthma, develop strategies to address those needs, and, vitally, ensure teachers and staff are trained to understand asthma and what to do during an asthma emergency.

By requiring LEAs to adopt comprehensive asthma management plans, SB 283 will encourage schools to identify and implement best practices towards making their schools asthma-friendly and ensure schools are adequately prepared to support their students with asthma."

Related legislation. AB 1283 (Chen) of the 2023-24 session authorizes an LEA to provide emergency stock albuterol inhalers, including single-use disposable holding chambers, to school nurses or trained personnel who have volunteered. Authorizes school nurses or trained personnel to use an emergency stock albuterol inhaler to provide emergency medical aid to persons suffering, or reasonably believed to be suffering, from respiratory distress. Requires the SPI to establish minimum standards of training for the administration of stock albuterol inhalers and review the standards every five years or sooner.

AB 743 (Eduardo Garcia), Chapter 101, Statutes of 2019, 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 inhaled asthma medication that the pupil is required to administer during the regular schoolday.

AB 2132 (Reyes), Chapter 832, Statutes of 2004, authorizes a pupil to carry and self-administer inhaled asthma medication during the schoolday if specified requirements are met.

REGISTERED SUPPORT / OPPOSITION:**Support**

Breathe California
Community Action to Fight Asthma
Consumer Attorneys of California
Los Angeles County Office of Education
Regional Asthma Management and Prevention

Opposition

None on file

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