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**SUBSTITUTE HOUSE BILL 1085**

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**State of Washington 67th Legislature 2021 Regular Session**

**By** House Education (originally sponsored by Representatives Kloba, Vick, Volz, Leavitt, Ramel, Hoff, Graham, Chopp, Lovick, Stokesbary, and Pollet)

AN ACT Relating to promoting a safe learning environment for students with seizure disorders; amending RCW 28A.210.260 and 28A.210.350; adding a new section to chapter 28A.210 RCW; and adding a new section to chapter 28A.235 RCW.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

NEW SECTION. **Sec.**  A new section is added to chapter 28A.210 RCW to read as follows:

(1) School districts shall provide individual health plans for students with epilepsy or other seizure disorders, subject to the following conditions:

(a) The board of directors of the school district shall adopt and periodically revise policies to be followed for students with epilepsy or other seizure disorders. The policies must cover, but need not be limited to, the following subjects:

(i) The acquisition of parent requests and instructions;

(ii) The acquisition of orders from licensed health professionals prescribing within the scope of their prescriptive authority for monitoring and treatment of seizure disorders at school;

(iii) The provision for storage of medical equipment and medication provided by the parent;

(iv) The establishment of school policy exceptions necessary to accommodate the students' needs related to epilepsy or other seizure disorders as described in the individual health plan;

(v) The development of individual emergency plans;

(vi) The distribution of the individual health plan to appropriate staff based on the students' needs and staff level of contact with the student;

(vii) The possession of legal documents for parent-designated adults to provide care, if needed; and

(viii) The updating of the individual health plan at least annually; and

(b) The board of directors, in the course of developing the policies in (a) of this subsection, shall consult with one or more licensed physicians or nurses, or appropriate personnel from a national epilepsy organization that offers seizure training and education for school nurses and other school personnel.

(2)(a) The board of directors shall designate a professional person licensed under chapter 18.71, 18.57, or 18.79 RCW as it applies to registered nurses and advanced registered nurse practitioners, to consult and coordinate with the student's parents and health care provider, and train and supervise the appropriate school district personnel in proper procedures for care for students with epilepsy or other seizure disorders to ensure a safe, therapeutic learning environment. Training required under this subsection (2)(a) may also be provided by a national organization that offers training for school nurses for managing students with seizures and seizure training for school personnel.

(b)(i) Parent-designated adults who are school district employees must receive training in accordance with (a) of this subsection (2).

(ii) Parent-designated adults who are not school district employees must show evidence of training in proper procedures for care of students with epilepsy or other seizure disorders. Training required under this subsection (2)(b)(ii) may be provided by a national organization that offers training for school nurses for managing students with seizures and seizure training for school personnel.

(iii) The professional person designated under (a) of this subsection (2) is not responsible for the supervision of the parent-designated adult for procedures authorized by the parents.

(3)(a) To be eligible to be a parent-designated adult, a school district employee not licensed under chapter 18.79 RCW shall file, without coercion by the employer, a voluntary written, current, and unexpired letter of intent stating the employee's willingness to be a parent-designated adult. If a school district employee who is not licensed under chapter 18.79 RCW chooses not to file a letter under this section, the employee may not be subject to any employer reprisal or disciplinary action for refusing to file a letter.

(b)(i) For the purposes of this section, "parent-designated adult" means a parent-designated adult who: (A) Volunteers for the designation; (B) receives additional training from a health care professional or expert in care for epilepsy or other seizure disorders selected by the parents; and (C) provides care for the child consistent with the individual health plan.

(ii) A parent-designated adult may be a school district employee.

(4) Nothing in this section is intended to supersede or otherwise modify nurse delegation requirements established in RCW 18.79.260.

(5) This section applies beginning with the 2022-23 school year.

**Sec.**  RCW 28A.210.260 and 2019 c 314 s 41 are each amended to read as follows:

(1) Public school districts and private schools which conduct any of grades kindergarten through the twelfth grade may provide for the administration of oral medication, topical medication, eye drops, ear drops, or nasal spray, of any nature to students who are in the custody of the school district or school at the time of administration, but are not required to do so by this section, subject to the following conditions:

(a) The board of directors of the public school district or the governing board of the private school or, if none, the chief administrator of the private school shall adopt policies which address the designation of employees who may administer oral medications, topical medications, eye drops, ear drops, or nasal spray to students, the acquisition of parent requests and instructions, and the acquisition of requests from licensed health professionals prescribing within the scope of their prescriptive authority and instructions regarding students who require medication for more than fifteen consecutive school days, the identification of the medication to be administered, the means of safekeeping medications with special attention given to the safeguarding of legend drugs as defined in chapter 69.41 RCW, and the means of maintaining a record of the administration of such medication. Policies adopted in accordance with this subsection (1) may not permit a school nurse to delegate the responsibility to administer student medications to a parent-designated adult who is not a school employee;

(b) The board of directors shall seek advice from one or more licensed physicians or nurses in the course of developing the foregoing policies;

(c) The public school district or private school is in receipt of a written, current and unexpired request from a parent, or a legal guardian, or other person having legal control over the student to administer the medication to the student;

(d) The public school district or the private school is in receipt of: (i) A written, current and unexpired request from a licensed health professional prescribing within the scope of his or her prescriptive authority for administration of the medication, as there exists a valid health reason which makes administration of such medication advisable during the hours when school is in session or the hours in which the student is under the supervision of school officials; and (ii) written, current and unexpired instructions from such licensed health professional prescribing within the scope of his or her prescriptive authority regarding the administration of prescribed medication to students who require medication for more than fifteen consecutive workdays;

(e) The medication is administered by an employee designated by or pursuant to the policies adopted pursuant to (a) of this subsection and in substantial compliance with the prescription of a licensed health professional prescribing within the scope of his or her prescriptive authority or the written instructions provided pursuant to (d) of this subsection((~~. If a school nurse is on the premises, a nasal spray that is a legend drug or a controlled substance must be administered by the school nurse. If no school nurse is on the premises, a nasal spray that is a legend drug or a controlled substance may be administered by a trained school employee or parent-designated adult who is not a school nurse. The board of directors shall allow school personnel, who have received appropriate training and volunteered for such training, to administer a nasal spray that is a legend drug or a controlled substance. After a school employee who is not a school nurse administers a nasal spray that is a legend drug or a controlled substance, the employee shall summon emergency medical assistance as soon as practicable~~));

(f) The medication is first examined by the employee administering the same to determine in his or her judgment that it appears to be in the original container and to be properly labeled; ((~~and~~))

(g) The board of directors shall designate a professional person licensed pursuant to chapter 18.71 ((~~RCW~~)) or ((~~chapter~~)) 18.79 RCW as it applies to registered nurses and advanced registered nurse practitioners, to delegate to, train, and supervise the designated school district personnel in proper medication procedures; and

(h) To be eligible to be a parent-designated adult, a school district employee not licensed under chapter 18.79 RCW must file, without coercion by the employer, a voluntary written, current, and unexpired letter of intent stating the employee's willingness to be a parent-designated adult. If a school district employee who is not licensed under chapter 18.79 RCW chooses not to file a letter under this section, the employee ((~~shall~~)) may not be subject to any employer reprisal or disciplinary action for refusing to file a letter. A parent-designated adult must be a volunteer, who may be a school district employee((~~, who receives additional training from a health care professional or expert in epileptic seizure care selected by the parents, and who provides care for the child consistent with the individual health plan; and~~

~~(i) The board of directors shall designate a professional person licensed under chapter 18.71, 18.57, or 18.79 RCW as it applies to registered nurses and advanced registered nurse practitioners, to consult and coordinate with the student's parents and health care provider, and train and supervise the appropriate school district personnel in proper procedures for care for students with epilepsy to ensure a safe, therapeutic learning environment. Training may also be provided by an epilepsy educator who is nationally certified. Parent-designated adults who are school employees are required to receive the training provided under this subsection. Parent-designated adults who are not school employees must show evidence of comparable training. The parent-designated adult must also receive additional training as established in (h) of this subsection for the additional care the parents have authorized the parent-designated adult to provide~~)). The professional person designated under this subsection is not responsible for the supervision of the parent-designated adult for those procedures that are authorized by the parents.

(2) This section does not apply to:

(a) Topical sunscreen products regulated by the United States food and drug administration for over-the-counter use. Provisions related to possession and application of topical sunscreen products are in RCW 28A.210.278; and

(b) Opioid overdose reversal medication. Provisions related to maintenance and administration of opioid overdose reversal medication are in RCW 28A.210.390.

**Sec.**  RCW 28A.210.350 and 2002 c 350 s 4 are each amended to read as follows:

A school district, school district employee, agent, or parent-designated adult who, acting in good faith and in substantial compliance with the student's individual health plan and the instructions of the student's licensed health care professional, provides assistance or services under RCW 28A.210.330 or section 1 of this act shall not be liable in any criminal action or for civil damages in his or her individual or marital or governmental or corporate or other capacities as a result of the services provided under RCW 28A.210.330 to students with diabetes or under section 1 of this act to students with epilepsy or other seizure disorders.

NEW SECTION. **Sec.**  A new section is added to chapter 28A.235 RCW to read as follows:

By December 15, 2021, the Washington state school directors' association, in consultation with the office of the superintendent of public instruction, shall adopt a model policy and procedure that school districts may use to implement the requirements of section 1 of this act. The model policy and procedure must be periodically reviewed by the Washington state school directors' association and may be revised as necessary.

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