

AMENDED IN SENATE FEBRUARY 27, 2006

AMENDED IN ASSEMBLY MAY 27, 2005

AMENDED IN ASSEMBLY MARCH 29, 2005

CALIFORNIA LEGISLATURE—2005—06 REGULAR SESSION

ASSEMBLY BILL

No. 264

**Introduced by Assembly Member Chan
(Principal coauthor: Assembly Member Levine)
(Coauthors: Assembly Members Evans, Frommer, Koretz, Laird,
and Pavley)
(Coauthor: Senator Alquist)**

February 8, 2005

~~An act to add Sections 49413.5 and 49416 to the Education Code, relating to pupil health. An act to amend Section 1367.06 of the Health and Safety Code, relating to health care service plans.~~

LEGISLATIVE COUNSEL'S DIGEST

AB 264, as amended, Chan. ~~Schools: asthma management. Health care service plans: pediatric asthma.~~

Existing law, the Knox-Keene Health Care Service Plan Act of 1975, provides for the regulation and licensure of health care service plans by the Department of Managed Health Care and makes a violation of the act's requirements a crime. Under the act, a health care service plan contract that covers prescription drug benefits is required to provide coverage for specified equipment and supplies for the treatment of pediatric asthma.

This bill would require a health care service plan contract, as specified, to include coverage for outpatient training and education

necessary to use the medications and devices prescribed for the treatment of pediatric asthma.

Because the bill would specify additional requirements for a health care service plan, the violation of which would be a crime, it would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

~~Existing law requires the governing board of any school district to give diligent care to the health and physical development of pupils.~~

~~This bill would require the State Department of Education to supply each school district and each county office of education with a copy of the report titled Guidelines for the Management of Asthma in California Schools.~~

~~The bill would require each school district and county office of education to ensure that each school within its jurisdiction has a copy of the report described above, by using the telephone or any other inexpensive means of communication to determine that the school has either downloaded a copy of the report from the Internet or has obtained a copy of the report in another manner.~~

~~This bill would require a school district that receives an asthma action plan, submitted by the parent or guardian of a pupil identified as having asthma, to maintain the plan on file in a centralized location and to provide other specified information to any teacher of any pupil for whom an asthma action plan is submitted. By imposing additional duties on school districts, the bill would impose a state-mandated local program.~~

~~The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.~~

~~This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.~~

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

1 *SECTION 1. Section 1367.06 of the Health and Safety Code*
2 *is amended to read:*

3 1367.06. (a) A health care service plan contract, except a
4 specialized health care service plan contract, that is issued,
5 amended, delivered, or renewed on or after January 1, 2005, that
6 covers outpatient prescription drug benefits shall include
7 coverage for inhaler spacers when medically necessary for the
8 management and treatment of pediatric asthma.

9 (b) If a subscriber has coverage for outpatient prescription
10 drugs, a health care service plan contract, except a specialized
11 health care service plan contract, that is issued, amended,
12 delivered, or renewed on or after January 1, 2005, shall include
13 coverage for the following equipment and supplies when
14 medically necessary for the management and treatment of
15 pediatric asthma:

16 (1) Nebulizers, including face masks and tubing.

17 (2) Peak flow meters.

18 (c) The quantity of the equipment and supplies required to be
19 covered pursuant to subdivisions (a) and (b) may be limited by
20 the health care service plan if the limitations do not inhibit
21 appropriate compliance with treatment as prescribed by the
22 enrollee's physician and surgeon. A health care service plan shall
23 provide for an expeditious process for approving additional or
24 replacement inhaler spacers, nebulizers, and peak flow meters
25 when medically necessary for an enrollee to maintain compliance
26 with his or her treatment regimen. The process required by
27 Section 1367.24 may be used to satisfy the requirements of this
28 section for an inhaler spacer.

29 (d) (1) Education for pediatric asthma, including education to
30 enable an enrollee to properly use the ~~device~~ *devices* identified in
31 subdivisions (a) and (b), shall be consistent with current
32 professional medical practice.

33 (2) *A health care service plan contract described in*
34 *subdivision (a) that is issued, amended, delivered, or renewed on*
35 *or after January 1, 2007, shall include coverage for outpatient*
36 *self-management training and education necessary to enable an*
37 *enrollee to properly use the medications and devices prescribed*
38 *for the treatment of pediatric asthma.*

1 (3) *The pediatric asthma outpatient self-management training*
2 *and education services identified in paragraph (2) shall be*
3 *provided under the supervision of an appropriately licensed or*
4 *registered health care professional as prescribed by a*
5 *participating health care professional legally authorized to*
6 *prescribe the service. If a plan delegates outpatient*
7 *self-management training and education to a contracting*
8 *provider, the plan shall require the contracting provider to*
9 *ensure that pediatric asthma outpatient self-management*
10 *training and education are provided under the supervision of an*
11 *appropriately licensed or registered health care professional.*
12 *These benefits shall include, but not be limited to, instruction that*
13 *will enable pediatric asthmatic patients and their families to gain*
14 *an understanding of the disease process and the daily*
15 *management of asthma in order to avoid frequent*
16 *hospitalizations and complications.*

17 (e) The coverage required by this section shall be provided
18 under the same general terms and conditions, including
19 copayments and deductibles, applicable to all other benefits
20 provided by the plan.

21 (f) A health care service plan shall disclose the benefits under
22 this section in its evidence of coverage and disclosure forms.

23 (g) A health care service plan may not reduce or eliminate
24 coverage as a result of the requirements of this section.

25 (h) Nothing in this section shall be construed to deny or
26 restrict in any way the department's authority to ensure plan
27 compliance with this chapter, if a plan provides coverage for
28 prescription drugs.

29 *SEC. 2. No reimbursement is required by this act pursuant to*
30 *Section 6 of Article XIII B of the California Constitution because*
31 *the only costs that may be incurred by a local agency or school*
32 *district will be incurred because this act creates a new crime or*
33 *infraction, eliminates a crime or infraction, or changes the*
34 *penalty for a crime or infraction, within the meaning of Section*
35 *17556 of the Government Code, or changes the definition of a*
36 *crime within the meaning of Section 6 of Article XIII B of the*
37 *California Constitution.*

38 ~~SECTION 1. The Legislature finds and declares all of the~~
39 ~~following:~~

1 ~~(a) An estimated 11.9 percent of Californians, including 3.9~~
2 ~~million adults and children, have been diagnosed with asthma.~~
3 ~~Asthma disproportionately affects children and young adults. In~~
4 ~~California, the occurrence of asthma is highest among children~~
5 ~~ages 12 to 17, and it is the leading cause of school absenteeism,~~
6 ~~resulting in over forty million dollars (\$40,000,000) in lost~~
7 ~~revenue to the state's public schools.~~

8 ~~(b) Schoolteachers, staff members, and administrators should~~
9 ~~all play a part in ensuring that pupils with asthma address the~~
10 ~~disease, including following the recommendations of a physician~~
11 ~~found in their asthma action plans.~~

12 ~~(c) With preventative medical care, including good health~~
13 ~~education, it is possible to eliminate nearly all asthma attacks and~~
14 ~~four out of five doctor or hospital visits for pupils with asthma.~~

15 ~~SEC. 2. Section 49413.5 is added to the Education Code, to~~
16 ~~read:~~

17 ~~49413.5. (a) The department shall supply each school~~
18 ~~district and each county office of education with a copy of the~~
19 ~~report titled Guidelines for the Management of Asthma in~~
20 ~~California Schools, which was developed jointly by the~~
21 ~~department and the State Department of Health Services.~~

22 ~~(b) Each school district and county office of education shall~~
23 ~~ensure that each school within its jurisdiction has a copy of the~~
24 ~~report described in subdivision (a), by using the telephone or any~~
25 ~~other inexpensive means of communication to determine that the~~
26 ~~school has either downloaded a copy of the report from the~~
27 ~~Internet or has obtained a copy of the report in another manner.~~

28 ~~SEC. 3. Section 49416 is added to the Education Code, to~~
29 ~~read:~~

30 ~~49416. (a) A school district that receives an asthma action~~
31 ~~plan, submitted by the parent or guardian of a pupil identified as~~
32 ~~having asthma, shall maintain the asthma action plan on file in a~~
33 ~~centralized location.~~

34 ~~(b) A school district shall make information on preventing and~~
35 ~~treating asthma attacks available to any teacher of any pupil for~~
36 ~~whom an asthma action plan is submitted. The information shall~~
37 ~~be obtained from existing local resources, including, but not~~
38 ~~limited to, the American Lung Association.~~

39 ~~(c) For purposes of this section, "asthma action plan" means a~~
40 ~~plan developed by the health care provider of the pupil, in~~

1 partnership with the pupil and the parent or guardian of the pupil,
2 to assist the pupil in the management of asthma attacks and in
3 maintaining long-term control of asthma.

4 (d) ~~In enacting this section, it is the intent of the Legislature to~~
5 ~~encourage school districts and schools, individually and jointly,~~
6 ~~to develop an asthma management plan in schools whereby~~
7 ~~schoolteachers, staff members, and administrators understand the~~
8 ~~importance of training in asthma management and have an~~
9 ~~opportunity to develop these skills.~~

10 SEC. 4. ~~If the Commission on State Mandates determines that~~
11 ~~this act contains costs mandated by the state, reimbursement to~~
12 ~~local agencies and school districts for those costs shall be made~~
13 ~~pursuant to Part 7 (commencing with Section 17500) of Division~~
14 ~~4 of Title 2 of the Government Code.~~