

Bill A5336

Session 2022 - 2023



ASSEMBLY, No. 5336

STATE OF NEW JERSEY

220th LEGISLATURE

INTRODUCED MARCH 23, 2023

Sponsored by:

Assemblyman DANIEL R. BENSON

District 14 (Mercer and Middlesex)

Assemblyman BENJIE E. WIMBERLY

District 35 (Bergen and Passaic)

Co-Sponsored by:

Assemblymen Umba, Conaway and Assemblywoman Jasey

SYNOPSIS

Requires public schools to develop policy for emergency administration of nasal seizure rescue medication and use of manual vagus nerve stimulators on students with seizure disorders.

CURRENT VERSION OF TEXT

As introduced.

AN ACT concerning seizure disorder emergencies in public schools and amending and supplementing P.L.2019, c.290.

BE IT ENACTED by the Senate and General Assembly of the State of New Jersey:

1. Section 1 of P.L.2019, c.290 (C.18A:40-12.34) is amended to read as follows:

1. As used in **[this act]** P.L.2019, c.290 (C.18A:40-12.34 et seq.) and P.L. __, c. __ (C. __) (pending before the Legislature as this bill):

"Individualized emergency health care plan" means a document developed by the school nurse, in consultation with the parent or guardian of a student with epilepsy or a seizure disorder and other appropriate medical professionals, which is consistent with the recommendations of the student's health care providers and which provides specific actions for non-medical school staff to do in a particular emergency situation and is signed by the parent or guardian and the school nurse.

"Individualized health care plan" means a document developed by the school nurse, in consultation with the parent or guardian of a student with epilepsy or a seizure disorder and other appropriate medical professionals who may be providing epilepsy or seizure disorder care to the student, which is consistent with the recommendations of the student's health care providers and which sets out the health services needed by the student at school and is signed by the parent or guardian and the school nurse.

"School" means an elementary or secondary public school located within this State.

"School employee" means a person employed by a school district.

"Seizure action plan" means a comprehensive document provided by the student's physician, advanced practice nurse, or physician's assistant which includes, but is not limited to, information regarding presentation of seizures, seizure triggers, daily seizure medications, seizure first aid, and additional treatments. The seizure action plan shall indicate whether a non-nursing employee may be designated to: administer emergency nasal rescue medication; and use a manual vagus nerve stimulator.

(cf: P.L.2019, c.290, s.1)

2. Section 5 of P.L.2019, c.290 (C.18A:40-12.38) is amended to read as follows:

5. No school employee, including a school nurse, a school bus driver, a school bus aide, or any other officer or agent of a board of education, shall be held liable for any good faith act or omission consistent with the provisions of **[this act]** P.L.2019, c.290 (C.18A:40-12.34 et seq.) and P.L. __, c. __ (C. __) (pending before the Legislature as this bill), nor shall an action before the New Jersey State Board of Nursing lie against a school nurse for any such action taken by a person trained in good faith by the school nurse pursuant to **[this act]** these acts. Good faith shall not include willful misconduct, gross negligence, or recklessness.

(cf: P.L.2019, c.290, s.5)

3. (New section) a. Each board of education shall develop a policy in accordance with the guidelines established by the Department of Education pursuant to section 4 of P.L. , c. (C.) (pending before the Legislature as this bill) for the emergency administration of nasal seizure rescue medication and the emergency use of a manual vagus nerve stimulator on a student with a seizure disorder.

b. The policy shall provide that the school nurse shall have the primary responsibility for the administration of nasal seizure rescue medication and the use of a manual vagus nerve stimulator. The certified school nurse shall designate, in consultation with the board of education, at least two additional employees of the school district who volunteer to administer the nasal seizure rescue medication and use a manual vagus nerve stimulator on a student when the school nurse is not physically present at the scene. The Department of Education, in consultation with the Department of Health, shall require trained designees for students enrolled in a school who may require the emergency administration of the nasal seizure rescue medication or the use of a manual vagus nerve stimulator.

c. The certified school nurse shall determine that:

(1) the designees have been properly trained in the administration of the nasal seizure rescue medication and the use of a manual vagus nerve stimulator using standardized training protocols established by the Department of Education and the Department of Health;

(2) the parents or guardians of the student have given their written consent to the administration of the nasal seizure rescue medication and use of a manual vagus nerve stimulator on the student by the designees;

(3) the school board informs the parents or guardians of the student in writing that the school district and its employees or agents shall have no liability as a result of any injury arising from the administration of the nasal seizure rescue medication and the use of a manual vagus nerve stimulator on the student;

(4) the parents or guardians of the student sign a statement acknowledging their understanding that the district shall have no liability as a result of any injury arising from the administration of the nasal seizure rescue medication and the use of a manual vagus nerve stimulator on the student and that the parents or guardians shall indemnify and hold harmless the district and its employees or agents against any claims arising out of the administration of the nasal seizure rescue medication and the use of a manual vagus nerve stimulator on the student; and

(5) the permission is effective for the school year for which it is granted and is renewed for each subsequent school year upon fulfillment of the requirements in paragraphs (1) through (4) of this subsection.

d. The policy shall also require:

(1) the transportation of the student to a hospital emergency room by emergency services personnel after the administration of the nasal seizure rescue medication, and if indicated in the emergency action plan after the use of a manual vagus nerve stimulator. The student shall be evaluated and receive medical clearance to return to school;

(2) an alternative plan in the case that a student's seizure action plan does not permit the administration of nasal seizure rescue medication or the use of a manual vagus nerve stimulator by a designee. An alternative plan may provide for seizure first aid, a request for emergency services personnel, or any other action deemed appropriate; and

(3) the parent or guardian to provide an ample supply of the prescribed nasal seizure rescue medication to the school nurse and to the designees. Alternatively, if provided for in the seizure action plan, the nasal seizure rescue medication may be permitted to be carried on the student's person.

4. (New section) a. The Department of Education, in consultation with the Department of Health, appropriate medical experts, and professional organizations representing school nurses, principals, and teachers, shall establish and disseminate to each board of education guidelines for the development of a policy by a school district for the emergency administration of nasal seizure rescue medication and the use of a manual vagus nerve stimulator on students.

b. Each board of education shall implement in the schools of the district the guidelines established and disseminated pursuant to subsection a. of this section.

5. (New section) a. In an effort to assist the certified school nurse in a school district in recruiting and training additional school employees as volunteer designees to administer the nasal seizure rescue medication and use a manual vagus nerve stimulator when the school nurse is not physically present, the Department of Education and the Department of Health shall jointly develop training protocols, in consultation with the New Jersey State School Nurses Association.

b. The certified school nurse in consultation with the board of education shall recruit and train volunteer designees who are determined acceptable candidates by the school nurse as deemed necessary by the nursing service plan.

6. (New section) The Department of Education shall take appropriate action to ensure that each school district incorporates age-appropriate education on epilepsy and seizure disorders, consistent with the classroom education programs developed by the Epilepsy Foundation of America or any successor organization, for students at least once between kindergarten and third grade and at least once between grades six and 12.

7. This act shall take effect on the first day of the 12th month next following the date of enactment, except that the Department of Education may take any anticipatory administrative action in advance as shall be necessary for the implementation of this act, including the development of training protocols for the administration of nasal seizure rescue medication and the use of manual vagus nerve stimulators by school employees designated by the certified school nurse.

STATEMENT

This bill requires a board of education to develop a policy in accordance with the guidelines established by the Department of Education for the emergency administration of nasal seizure rescue medication and the emergency use of a manual vagus nerve stimulator on a student with a seizure disorder. Pursuant to the policy, the school nurse is to have the primary responsibility for the administration of nasal seizure rescue medication. The certified school nurse is required to designate at least two additional employees of the school district who volunteer to administer the nasal seizure rescue medication and use a manual vagus nerve stimulator on a student when the school nurse is not physically present at the scene.

The certified school nurse is required to determine that:

- the designees have been properly trained;
- the parents of the student consent in writing to the administration of the nasal seizure rescue medication and use of a manual vagus nerve stimulator by the designees;
- the parents are informed in writing that the district and its employees have no liability as a result of any injury arising from the administration of the nasal seizure rescue medication and the use of a manual vagus nerve stimulator; and
- the parents sign a statement acknowledging their understanding that the district has no liability as a result of any injury arising from the administration of the nasal seizure rescue medication and the use of a manual vagus nerve stimulator.

The policy developed by the school district is to require:

(1) the transportation of the student to a hospital emergency room by emergency services personnel after the administration of the nasal seizure rescue medication, and if indicated in the emergency action plan after the use of a manual vagus nerve stimulator. The student is to be evaluated and receive medical clearance in order to return to school;

(2) an alternative plan in the case that a student's seizure action plan does not permit the administration of nasal seizure rescue medication or the use of a manual vagus nerve stimulator by a designee; and

(3) the parent to provide an ample supply of the prescribed nasal seizure rescue medication to the school nurse and to the designees. Alternatively, if provided for in the seizure action plan, the nasal seizure rescue medication may be permitted to be carried on the student's person.

The Department of Education, in consultation with the Department of Health, appropriate medical experts, and professional organizations representing school nurses, principals, and teachers, is required to establish and disseminate to each board of education guidelines for the development of a policy by a school district for the emergency administration of nasal seizure rescue medication and the use of a manual vagus nerve stimulator on students. The Departments of Education and Health are also required to jointly develop protocols, in consultation with the New Jersey State School Nurses Association, for the training of additional school employees as volunteer designees to administer the nasal seizure rescue medication and use a manual vagus nerve stimulator when the school nurse is not physically present.

The bill requires the Department of Education to take appropriate action to ensure that each school district incorporates age-appropriate education on epilepsy and seizure disorders, consistent with the classroom education programs developed by the Epilepsy Foundation of America, at least once between kindergarten and third grade and at least once between grades six and 12.

The bill will take effect on the first day of the 12th month next following the date of enactment, except that the Department of Education may take anticipatory administrative action to implement the bill's provisions. This delayed effective date will allow time for the development of training protocols for school employees designated by the certified school nurse to administer the nasal seizure rescue medication or use the manual vagus nerve stimulator when the school nurse is not present.