

HB 384

Public and Nonpublic Schools – Bronchodilator Availability and Use – Policy Favorable with Amendments

The Maryland Association for Justice (MAJ) envisions a fair and impartial legal system that protects the rights and safety of all people. The Maryland Association for Justice is dedicated to improving and protecting the civil justice system through legislative advocacy and the professional development of trial lawyers.

HB 384 would establish components of a Bronchodilator Availability and Use Policy to be adopted and maintained by public and non-public schools in Maryland. Central to HB 384 is a legislative grant of immunity: causes of action for civil liability “may not arise” against school nurses and personnel who responds to asthma attack and causes harm, see §7-426.6 (page 3, Part (E)) and §7-426.7 (page 6, Part (E)).

MAJ respectfully submits that a broad legislative grant of immunity is bad public policy, because victims of negligent conduct, including minor children, lose their chance to get justice in court. HB 384 attempts to narrow the immunity to only those who respond in good faith in accordance with an adopted Bronchodilator policy; however, MAJ respectfully offers the following amendments to further clarify immunity eligibility.

Part 1-Beginning on Page 3, Line 21 of HB 384 insert and remove the following:

- 21 (E) EXCEPT FOR ANY WILLFUL OR GROSSLY NEGLIGENT ACT, A SCHOOL
22 NURSE OR ANY OTHER SCHOOL PERSONNEL WHO RESPOND IN
23 ACCORDANCE WITH THIS SECTION AND IN GOOD FAITH TO THE
24 ~~THIS SECTION~~ MAY NOT BE HELD PERSONALLY LIABLE FOR ANY ACT
OR OMISSION
25 IN THE COURSE OF RESPONDING TO THE CHILD IN DISTRESS.

(OVER)

Part 2- Beginning on Page 6, Line 10 of HB 384 insert and remove the following:

- 10 (E) EXCEPT FOR ANY WILLFUL OR ~~GROSSLY~~ NEGLIGENT ACT, A SCHOOL
11 NURSE OR ANY OTHER SCHOOL PERSONNEL WHO RESPOND IN
12 ACCORDANCE WITH THIS SECTION AND IN GOOD FAITH TO THE
13 ~~ASTHMA ATTACK OR RESPIRATORY DISTRESS OF A CHILD IN~~
14 ~~ACCORDANCE WITH~~
13 ~~THIS SECTION~~ MAY NOT BE HELD PERSONALLY LIABLE FOR ANY ACT
OR OMISSION
14 IN THE COURSE OF RESPONDING TO THE CHILD IN DISTRESS.

MAJ respectfully urges a Favorable with Amendments Report