

SENATE No. 401

By Mr. Berry, petition (accompanied by bill, Senate, No. 401) of Frederick E. Berry, Louis P. Bertonazzi and Shannon P. O'Brien for legislation relative to the administration of certain medications in schools. Health Care.

The Commonwealth of Massachusetts

In the Year One Thousand Nine Hundred and Ninety-Two.

AN ACT RELATIVE TO THE ADMINISTRATION OF CERTAIN MEDICATIONS IN SCHOOLS.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 SECTION 1. Chapter 71 of the General Laws is hereby
2 amended by striking out section fifty-four B, as appearing in the
3 1988 Official Edition, and inserting in place thereof the following
4 section: —

5 Section 54B. No person shall administer or cause to be
6 administered to a pupil in any public school in the Commonwealth
7 any psychotropic drug included on a list established by the
8 department of public health unless the school has obtained
9 authorization and direction from the pupil's attending physician
10 who has determined that the administration of such drugs in
11 school is a legitimate medical need of the pupil. Administration
12 of duly authorized medication shall be carried out only by a
13 registered nurse or a licensed physician assigned to the pupil's
14 school for the purpose of administering such medication. In the
15 event that the assigned nurse or physician is absent for the day,
16 or any part thereof or the pupil is on a school outing and the nurse
17 is unavailable, such medication may be administered by a school
18 employee who has volunteered to administer such medication and
19 who has received training prescribed by the department of public
20 health. No employer shall discharge or in any manner discriminate
21 or retaliate against any employee who declines to volunteer to
22 administer psychotropic drugs under the direction of a nurse or

23 physician. Any employer who discharges, discriminates or
24 retaliates against such a person shall be liable to such person for
25 treble damages, costs and attorney's fees. No person shall
26 administer psychotropic drugs to such a pupil for the purposes
27 of clinical research.

28 The department of public health shall adopt rules and
29 regulations under the provisions of chapter thirty A of the General
30 Laws to govern the administration of psychotropic drugs to pupils
31 in public schools consistent with this section. Said rules and
32 regulations shall include, but not be limited to:

33 (a) a list of psychotropic drugs which shall be reviewed
34 annually and revised as deemed necessary;

35 (b) requirement of a written consent/release by the parent(s)
36 or legal guardian annually which shall include consent/release to
37 administration by a person other than the nurse or physician
38 assigned to the pupil's schools as provided above;

39 (c) requirement of a written order from the attending physician
40 to the school annually;

41 (d) requirements regarding training, supervision and adminis-
42 tration as specified by protocols established by the department
43 including requirements for training and supervision by medical
44 personnel of any persons other than the nurse or doctor assigned
45 to the pupil's school who may volunteer to administer such
46 medication as provided above;

47 (e) a record keeping system, maintained in a confidential
48 manner by the public school for each pupil receiving such drugs;

49 (f) requirement of annual reporting from the public schools to
50 the department of public health on all pupils receiving
51 psychotropic drugs, on forms supplied by the department of
52 public health, which shall include but not be limited to
53 descriptions of the number of instances in which medication was
54 administered by a person other than the nurse or doctor assigned
55 to the school and the reason that the nurse or physician was
56 unavailable; provided that data compiled by the department shall
57 be a matter of public record; provided further that such data shall
58 not include any information which may identify the name of any
59 pupil receiving any psychotropic drug; and

60 (g) requirement that the department of public health prepare
61 an annual report to be made available to the public which report

62 shall include the number of instances in which medication was
63 administered by a person other than the nurse or physician
64 assigned to the school and the reason that the nurse or doctor
65 was unavailable.

66 Nothing contained in this section shall be construed to affect
67 the rights, duties, obligations, privileges or immunities granted by
68 or under the provisions of chapter two hundred and fifty-eight
69 of the General Laws.

1 SECTION 2. The Department of Public Health shall convene
2 an advisory group in developing the regulations required by
3 section one of this Act. Said advisory group shall include
4 representative physicians, including pediatricians, school nurses,
5 other school personnel, including teachers, parents of pupils
6 affected by this Act and representation from the department of
7 education. Upon obtaining approval from the public health
8 council to proceed to public hearing on proposed regulations, said
9 department shall promptly forward to the chairmen of the joint
10 committee on education, arts and humanities and the joint
11 committee on health care copies of the proposed regulations and
12 notice of the scheduled hearing date at least three weeks in advance
13 of said hearing.

