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H.B. No. 4058

A BILL TO BE ENTITLED

AN ACT

relating to the use of opioid antagonists on the campuses of public and private schools and institutions of higher education and at or in transit to or from off-campus school events.

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

SECTION 1. The heading to Subchapter E, Chapter 38, Education Code, is amended to read as follows:

SUBCHAPTER E. MAINTENANCE, ~~[AND]~~ ADMINISTRATION, AND DISPOSAL OF EPINEPHRINE AUTO-INJECTORS, OPIOID ANTAGONISTS, AND ASTHMA MEDICINE

SECTION 2. Section 38.201, Education Code, is amended by amending Subdivision (1) and adding Subdivision (3-a) to read as follows:

(1) "Advisory committee" means the stock medication advisory committee established under Section 38.202.

(3-a) "Opioid antagonist" and "opioid-related drug overdose" have the meanings assigned by Section 483.101, Health and Safety Code.

SECTION 3. The heading to Section 38.202, Education Code, is amended to read as follows:

Sec. 38.202. STOCK MEDICATION ADVISORY COMMITTEE: ESTABLISHMENT AND COMPOSITION.

SECTION 4. Sections 38.202(a) and (b), Education Code, are amended to read as follows:

1 (a) The commissioner of state health services shall
2 establish a stock medication [~~an~~] advisory committee to examine and
3 review the administration of epinephrine auto-injectors to a person
4 experiencing an anaphylactic reaction, and opioid antagonists to a
5 person experiencing an apparent opioid-related drug overdose, on a
6 campus of a school district, an open-enrollment charter school, a
7 private school, or an institution of higher education or at an
8 off-campus school event or while in transit to or from a school
9 event.

10 (b) The advisory committee shall be composed of members
11 appointed by the commissioner of state health services. In making
12 appointments, the commissioner shall ensure that:

13 (1) a majority of the members are physicians with
14 expertise in treating anaphylaxis or opioid-related drug
15 overdoses, including physicians who specialize in the fields of
16 pediatrics, allergies, asthma, drug use disorders, and immunology;

17 (2) at least one member is a registered nurse employed
18 by a school district, open-enrollment charter school, or private
19 school as a school nurse;

20 (3) at least one member is an employee of a general
21 academic teaching institution; and

22 (4) at least one member is an employee of a public
23 junior college or a public technical institute.

24 SECTION 5. Section 38.207, Education Code, is amended to
25 read as follows:

26 Sec. 38.207. ADVISORY COMMITTEE: DUTIES. The advisory
27 committee shall advise the commissioner of state health services

1 on:

2 (1) the storage and maintenance of epinephrine
3 auto-injectors and opioid antagonists on school campuses and
4 campuses of institutions of higher education;

5 (2) the training of school personnel and school
6 volunteers, and of personnel and volunteers at institutions of
7 higher education, in the administration of an epinephrine
8 auto-injector and opioid antagonist; and

9 (3) a plan for:

10 (A) one or more school personnel members or
11 school volunteers trained in the administration of an epinephrine
12 auto-injector to be on each school campus; ~~and~~

13 (B) one or more school personnel members or
14 school volunteers trained in the administration of an opioid
15 antagonist to be on each school campus;

16 (C) one or more personnel members or volunteers
17 of an institution of higher education trained in the administration
18 of an epinephrine auto-injector to be on each campus of an
19 institution of higher education; and

20 (D) one or more personnel members or volunteers
21 of an institution of higher education trained in the administration
22 of an opioid antagonist to be on each campus of an institution of
23 higher education.

24 SECTION 6. The heading to Section 38.208, Education Code,
25 is amended to read as follows:

26 Sec. 38.208. MAINTENANCE AND ADMINISTRATION OF EPINEPHRINE
27 AUTO-INJECTORS, OPIOID ANTAGONISTS, AND ASTHMA MEDICINE.

1 SECTION 7. Sections 38.208(a), (b), (c), and (e), Education
2 Code, are amended to read as follows:

3 (a) Each school district, open-enrollment charter school,
4 and private school may adopt and implement a policy regarding the
5 maintenance, administration, and disposal of epinephrine
6 auto-injectors or opioid antagonists at each campus in the district
7 or school.

8 (b) If a policy is adopted under Subsection (a), the policy,
9 as applicable:

10 (1) must provide that school personnel and school
11 volunteers who are authorized and trained may administer an
12 epinephrine auto-injector to a person who is reasonably believed to
13 be experiencing anaphylaxis, or an opioid antagonist to a person
14 who is reasonably believed to be experiencing an opioid-related
15 drug overdose, on a school campus; and

16 (2) may provide that school personnel and school
17 volunteers who are authorized and trained may administer an
18 epinephrine auto-injector to a person who is reasonably believed to
19 be experiencing anaphylaxis, or an opioid antagonist to a person
20 who is reasonably believed to be experiencing an opioid-related
21 drug overdose, at an off-campus school event or while in transit to
22 or from a school event.

23 (c) The executive commissioner of the Health and Human
24 Services Commission, in consultation with the commissioner of
25 education, and with advice from the advisory committee as
26 appropriate, shall adopt rules regarding the maintenance,
27 administration, and disposal of an epinephrine auto-injector and

1 opioid antagonist at a school campus subject to a policy adopted
2 under Subsection (a) and the maintenance and administration of
3 asthma medicine at a school campus subject to a policy adopted under
4 Subsection (a-1). The rules must establish:

5 (1) the number of epinephrine auto-injectors and
6 opioid antagonists available at each campus;

7 (2) the amount of prescription asthma medicine
8 available at each campus;

9 (3) the process for each school district,
10 open-enrollment charter school, and private school to check the
11 inventory of epinephrine auto-injectors, opioid antagonists, and
12 asthma medicine at regular intervals for expiration and
13 replacement; and

14 (4) the amount of training required for school
15 personnel and school volunteers to administer an epinephrine
16 auto-injector or opioid antagonist.

17 (e) The supply of epinephrine auto-injectors and opioid
18 antagonists at each campus must be stored in a secure location and
19 be easily accessible to school personnel and school volunteers
20 authorized and trained to administer an epinephrine auto-injector
21 or opioid antagonist. The supply of asthma medicine at each campus
22 must be stored in a secure location and be easily accessible to the
23 school nurse.

24 SECTION 8. Section 38.209, Education Code, is amended to
25 read as follows:

26 Sec. 38.209. REPORT ON ADMINISTERING EPINEPHRINE
27 AUTO-INJECTOR OR OPIOID ANTAGONIST. (a) Not later than the 10th

1 business day after the date a school personnel member or school
2 volunteer administers an epinephrine auto-injector or opioid
3 antagonist in accordance with a policy adopted under Section
4 38.208(a), the school shall report the information required under
5 Subsection (b) to:

6 (1) the school district, the charter holder if the
7 school is an open-enrollment charter school, or the governing body
8 of the school if the school is a private school;

9 (2) the physician or other person who prescribed the
10 epinephrine auto-injector or opioid antagonist; and

11 (3) the commissioner of state health services.

12 (b) The report required under this section must include the
13 following information:

14 (1) the age of the person who received the
15 administration of the epinephrine auto-injector or opioid
16 antagonist;

17 (2) whether the person who received the administration
18 of the epinephrine auto-injector or opioid antagonist was a
19 student, a school personnel member or school volunteer, or a
20 visitor;

21 (3) the physical location where the epinephrine
22 auto-injector or opioid antagonist was administered;

23 (4) the number of doses of epinephrine auto-injector
24 or opioid antagonist administered;

25 (5) the title of the person who administered the
26 epinephrine auto-injector or opioid antagonist; and

27 (6) any other information required by the commissioner

1 of education.

2 SECTION 9. Sections 38.210(a) and (b), Education Code, are
3 amended to read as follows:

4 (a) Each school district, open-enrollment charter school,
5 and private school that adopts a policy under Section 38.208(a) is
6 responsible for training school personnel and school volunteers in
7 the administration of an epinephrine auto-injector or opioid
8 antagonist.

9 (b) Training required under this section must:

10 (1) include information on:

11 (A) recognizing the signs and symptoms of
12 anaphylaxis or an opioid-related drug overdose;

13 (B) administering an epinephrine auto-injector
14 or opioid antagonist;

15 (C) implementing emergency procedures, if
16 necessary, after administering an epinephrine auto-injector or
17 opioid antagonist; and

18 (D) properly disposing of used or expired
19 epinephrine auto-injectors or opioid antagonists;

20 (2) be provided in a formal training session or
21 through online education; and

22 (3) be provided in accordance with the policy adopted
23 under Section 21.4515.

24 SECTION 10. The heading to Section 38.211, Education Code,
25 is amended to read as follows:

26 Sec. 38.211. PRESCRIPTION OF EPINEPHRINE AUTO-INJECTORS,
27 OPIOID ANTAGONISTS, AND ASTHMA MEDICINE.

1 SECTION 11. Sections 38.211(a), (b), (c), (e), and (f),
2 Education Code, are amended to read as follows:

3 (a) A physician or person who has been delegated
4 prescriptive authority under Chapter 157, Occupations Code, may
5 prescribe epinephrine auto-injectors, opioid antagonists, or
6 asthma medicine in the name of a school district, open-enrollment
7 charter school, or private school.

8 (b) A physician or other person who prescribes epinephrine
9 auto-injectors, opioid antagonists, or asthma medicine under
10 Subsection (a) shall provide the school district, open-enrollment
11 charter school, or private school with a standing order for the
12 administration of, as applicable:

13 (1) an epinephrine auto-injector to a person
14 reasonably believed to be experiencing anaphylaxis; ~~or~~

15 (2) an opioid antagonist to a person reasonably
16 believed to be experiencing an opioid-related drug overdose; or

17 (3) asthma medicine to a person reasonably believed to
18 be experiencing a symptom of asthma and who has provided written
19 notification and permission as required by Section 38.208(b-1).

20 (c) The standing order under Subsection (b) is not required
21 to be patient-specific, and the epinephrine auto-injector, opioid
22 antagonist, or asthma medicine may be administered to a person
23 without a previously established physician-patient relationship.

24 (e) An order issued under this section must contain:

25 (1) the name and signature of the prescribing
26 physician or other person;

27 (2) the name of the school district, open-enrollment

1 charter school, or private school to which the order is issued;

2 (3) the quantity of epinephrine auto-injectors,
3 opioid antagonists, or asthma medicine to be obtained and
4 maintained under the order; and

5 (4) the date of issue.

6 (f) A pharmacist may dispense an epinephrine auto-injector,
7 opioid antagonist, or asthma medicine to a school district,
8 open-enrollment charter school, or private school without
9 requiring the name or any other identifying information relating to
10 the user.

11 SECTION 12. Section 38.215(a), Education Code, is amended
12 to read as follows:

13 (a) A person who in good faith takes, or fails to take, any
14 action under this subchapter is immune from civil or criminal
15 liability or disciplinary action resulting from that action or
16 failure to act, including:

17 (1) issuing an order for epinephrine auto-injectors,
18 opioid antagonists, or asthma medicine;

19 (2) supervising or delegating the administration of an
20 epinephrine auto-injector, an opioid antagonist, or asthma
21 medicine;

22 (3) possessing, maintaining, storing, or disposing of
23 an epinephrine auto-injector, an opioid antagonist, or asthma
24 medicine;

25 (4) prescribing an epinephrine auto-injector, an
26 opioid antagonist, or asthma medicine;

27 (5) dispensing:

- 1 (A) an epinephrine auto-injector; [~~or~~]
2 (B) an opioid antagonist; or
3 (C) asthma medicine, provided that permission
4 has been granted as provided by Section 38.208(b-1);
5 (6) administering, or assisting in administering, an
6 epinephrine auto-injector, an opioid antagonist, or asthma
7 medicine, provided that permission has been granted as provided by
8 Section 38.208(b-1);
9 (7) providing, or assisting in providing, training,
10 consultation, or advice in the development, adoption, or
11 implementation of policies, guidelines, rules, or plans; or
12 (8) undertaking any other act permitted or required
13 under this subchapter.

14 SECTION 13. Chapter 51, Education Code, is amended by
15 adding Subchapter Y-2 to read as follows:

16 SUBCHAPTER Y-2. PROVIDING OPIOID ANTAGONISTS

17 Sec. 51.891. DEFINITIONS. In this subchapter:

18 (1) "Campus" means an educational unit under the
19 management and control of an institution of higher education or
20 private or independent institution of higher education and may
21 include, in addition to the main campus, off-campus and secondary
22 locations, such as branch campuses, teaching locations, and
23 regional centers.

24 (2) "Employee" means an employee of an institution of
25 higher education or private or independent institution of higher
26 education.

27 (3) "Institution of higher education" and "private or

1 independent institution of higher education" have the meanings
2 assigned by Section 61.003.

3 (4) "Opioid antagonist" and "opioid-related drug
4 overdose" have the meanings assigned by Section 483.101, Health and
5 Safety Code.

6 (5) "Physician" means a person who holds a license to
7 practice medicine in this state.

8 Sec. 51.892. POLICY REGARDING OPIOID ANTAGONISTS. (a)
9 Each institution of higher education or private or independent
10 institution of higher education may adopt and implement a policy
11 providing for:

12 (1) the availability of opioid antagonists at
13 locations throughout the institution's campus, including
14 provisions for the acquisition, maintenance, storage,
15 administration, and disposal of those devices; and

16 (2) the training of employees and student volunteers
17 in the proper use of those devices.

18 (b) A policy adopted under Subsection (a) must provide that
19 employees and student volunteers who are authorized and trained may
20 administer an opioid antagonist to a person who is reasonably
21 believed to be experiencing an opioid-related drug overdose on the
22 institution's campus.

23 (c) The Texas Higher Education Coordinating Board with
24 advice from the commissioner of state health services shall adopt
25 rules regarding the maintenance, storage, administration, and
26 disposal of an opioid antagonist to be used on the campus of an
27 institution that adopts a policy under Subsection (a). The rules

1 must establish:

2 (1) a process for each institution to check the
3 inventory of opioid antagonists at regular intervals for expiration
4 and replacement; and

5 (2) an amount of training required for employees and
6 student volunteers to administer an opioid antagonist.

7 (d) Each institution that adopts a policy under Subsection
8 (a) must include the policy in the institution's student handbook
9 or similar publication and publish the policy on the institution's
10 Internet website.

11 (e) The supply of opioid antagonists at a campus must be
12 stored in secure locations and be easily accessible to employees
13 and student volunteers authorized and trained to administer an
14 opioid antagonist.

15 Sec. 51.893. REPORT ON ADMINISTERING OPIOID ANTAGONIST.

16 (a) Not later than the 10th business day after the date an employee
17 or student volunteer administers an opioid antagonist in accordance
18 with a policy adopted under Section 51.892, the institution of
19 higher education or private or independent institution of higher
20 education shall report the information required under Subsection
21 (b) to the physician who prescribed the opioid antagonist.

22 (b) The report required under this section must include the
23 following information:

24 (1) the age of the person who received the
25 administration of the opioid antagonist;

26 (2) whether the person who received the administration
27 of the opioid antagonist was a student, employee, or visitor;

1 (3) the physical location where the opioid antagonist
2 was administered;

3 (4) the number of doses of opioid antagonist
4 administered;

5 (5) the title of the person who administered the
6 opioid antagonist; and

7 (6) any other information required by the commissioner
8 of higher education.

9 Sec. 51.894. TRAINING. (a) Each institution of higher
10 education or private or independent institution of higher education
11 is responsible for training employees and student volunteers in the
12 administration of an opioid antagonist.

13 (b) Training required under this section must:

14 (1) include information on:

15 (A) recognizing the signs and symptoms of an
16 opioid-related drug overdose;

17 (B) administering an opioid antagonist;

18 (C) implementing emergency procedures, if
19 necessary, after administering an opioid antagonist;

20 (D) the required alerting of emergency medical
21 services during or immediately after the administration of the
22 opioid antagonist; and

23 (E) properly disposing of used or expired opioid
24 antagonists;

25 (2) be provided along with any other mandatory
26 training the institution imposes, in a formal training session or
27 through online education, and be completed annually; and

1 (3) provide an opportunity to address frequently asked
2 questions.

3 (c) Each institution shall maintain records on the training
4 required under this section.

5 Sec. 51.895. PRESCRIPTION OF OPIOID ANTAGONISTS. (a) A
6 physician may prescribe opioid antagonists in the name of an
7 institution of higher education or private or independent
8 institution of higher education. The physician shall provide the
9 institution with a standing order for the administration of an
10 opioid antagonist to a person reasonably believed to be
11 experiencing an opioid-related drug overdose.

12 (b) The standing order under Subsection (a) is not required
13 to be patient-specific, and the opioid antagonist may be
14 administered to a person without an established physician-patient
15 relationship.

16 (c) Notwithstanding any other provisions of law,
17 supervision or delegation by a physician is considered adequate if
18 the physician:

19 (1) periodically reviews the order; and
20 (2) is available through direct telecommunication as
21 needed for consultation, assistance, and direction.

22 (d) An order issued under this section must contain:

23 (1) the name and signature of the prescribing
24 physician;

25 (2) the name of the institution of higher education or
26 private or independent institution of higher education to which the
27 order is issued;

1 (3) the quantity of opioid antagonists to be obtained
2 and maintained under the order; and

3 (4) the date of issue.

4 (e) A pharmacist may dispense an opioid antagonist to an
5 institution for purposes of this subchapter without requiring the
6 name or any other identifying information relating to the user.

7 Sec. 51.896. GIFTS, GRANTS, AND DONATIONS. An institution
8 of higher education or private or independent institution of higher
9 education may accept gifts, grants, donations, and federal funds to
10 implement this subchapter.

11 Sec. 51.897. RULES. The commissioner of higher education
12 shall adopt rules necessary to implement this subchapter.

13 Sec. 51.898. IMMUNITIES. (a) A person who in good faith
14 takes, or fails to take, any action under this subchapter is immune
15 from civil or criminal liability or disciplinary action resulting
16 from that act or failure to act, including:

17 (1) issuing an order for opioid antagonists;

18 (2) supervising or delegating the administration of an
19 opioid antagonist;

20 (3) possessing an opioid antagonist;

21 (4) maintaining an opioid antagonist;

22 (5) storing an opioid antagonist;

23 (6) disposing of an opioid antagonist;

24 (7) prescribing an opioid antagonist;

25 (8) dispensing an opioid antagonist;

26 (9) administering, or assisting in administering, an
27 opioid antagonist;

1 (10) providing, or assisting in providing, training,
2 consultation, or advice in the development, adoption, or
3 implementation of policies, guidelines, rules, or plans regarding
4 the availability and use of an opioid antagonist; or

5 (11) undertaking any other act permitted or required
6 under this subchapter.

7 (b) The immunity provided by Subsection (a) is in addition
8 to other immunity or limitations of liability provided by law.

9 (c) Notwithstanding any other law, this subchapter does not
10 create a civil, criminal, or administrative cause of action or
11 liability or create a standard of care, obligation, or duty that
12 provides the basis for a cause of action for an act or omission
13 under this subchapter.

14 (d) An institution of higher education or private or
15 independent institution of higher education is immune from suit
16 resulting from an act, or failure to act, of any person under this
17 subchapter, including an act or failure to act under related
18 policies and procedures.

19 (e) A cause of action does not arise from an act or omission
20 described by this section.

21 (f) A person acting in good faith who reports or requests
22 emergency medical assistance for a person who is reasonably
23 believed to be experiencing an opioid-related drug overdose on
24 campus:

25 (1) is immune from civil liability, and from criminal
26 liability for offenses under Section [481.115\(b\)](#), [481.1151\(b\)\(1\)](#),
27 [481.116\(b\)](#), [481.1161\(b\)\(1\)](#) or (2), [481.117\(b\)](#), [481.118\(b\)](#),

1 481.119(b), 481.121(b)(1) or (2), 481.125(a), 483.041(a), or
2 485.031(a), Health and Safety Code, that might otherwise be
3 incurred or imposed as a result of those actions; and

4 (2) may not be subjected to any disciplinary action by
5 the institution of higher education or private or independent
6 institution of higher education at which the person is enrolled or
7 employed for any violation by the person of the institution's code
8 of conduct reasonably related to the incident unless suspension or
9 expulsion from the institution is a possible punishment.

10 SECTION 14. This Act applies beginning with the 2023-2024
11 school year or academic year, as applicable.

12 SECTION 15. This Act takes effect immediately if it
13 receives a vote of two-thirds of all the members elected to each
14 house, as provided by Section 39, Article III, Texas Constitution.
15 If this Act does not receive the vote necessary for immediate
16 effect, this Act takes effect September 1, 2023.