

By: Parker

H.B. No. 2555

Substitute the following for H.B. No. 2555:

By: Bell of Kaufman

C.S.H.B. No. 2555

A BILL TO BE ENTITLED

1 AN ACT

2 relating to guidelines for policies of school districts and
3 open-enrollment charter schools for the care of certain students at
4 risk for anaphylaxis.

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

6 SECTION 1. Section 38.0151, Education Code, is amended by
7 amending Subsections (a), (b), and (e) and adding Subsections (g),
8 (h), (i), and (j) to read as follows:

9 (a) The board of trustees of each school district and the
10 governing body or an appropriate officer of each open-enrollment
11 charter school shall adopt and administer a policy for the care of
12 students with a diagnosed food allergy at risk for anaphylaxis
13 based on "Guidelines for the Care of Students With Food Allergies
14 At-Risk for Anaphylaxis" [~~guidelines~~] developed by the
15 commissioner of state health services under this section and
16 updated by the commissioner of state health services in
17 consultation with an ad hoc committee appointed by the commissioner
18 of state health services as provided by Section 38.0152.

19 (b) A school district or open-enrollment charter school
20 [~~that implemented a policy for the care of students with a diagnosed~~
21 ~~food allergy at risk for anaphylaxis before the development of the~~
22 ~~guidelines described by Subsection (a)] shall annually review [~~the~~
23 ~~policy~~] and, as necessary, revise its [~~the~~] policy for the care of
24 students with a diagnosed food allergy at risk for anaphylaxis [~~as~~~~

1 ~~necessary~~] to ensure the policy is consistent with the most current
2 version of the guidelines described by Subsection (a).

3 (e) The agency shall post the guidelines described by
4 Subsection (a) [~~developed by the commissioner of state health~~
5 ~~services under this section~~] on the agency's website with any other
6 information relating to students with special health needs. The
7 information posted by the agency must include a summary of the
8 guidelines. The agency shall annually review and, as necessary,
9 revise the summary and any other information to reflect the most
10 current version of the guidelines.

11 (g) Each school year, the board of trustees of each school
12 district and the governing body of each open-enrollment charter
13 school shall post a summary of the guidelines on the district's or
14 school's Internet website, including instructions on obtaining
15 access to the complete guidelines document. The district's or
16 school's website must be accessible by each student enrolled in the
17 district or school and a parent or guardian of each student. Any
18 forms used by a district or school requesting information from a
19 parent or guardian enrolling a child with a food allergy in the
20 district or school must include information to access on the
21 district's or school's Internet website a summary of the guidelines
22 and instructions on obtaining access to the complete guidelines
23 document.

24 (h) The guidelines described by Subsection (a) may not:

25 (1) require a school district or open-enrollment
26 charter school to purchase treatments approved by the United States
27 Food and Drug Administration or make any other expenditure that

1 would result in a negative fiscal impact on the district or school;

2 or

3 (2) require the personnel of a district or school to
4 administer treatments approved by the United States Food and Drug
5 Administration to a student unless the medication is prescribed for
6 that student by the student's physician.

7 (i) This section does not:

8 (1) waive any liability or immunity of a school
9 district or open-enrollment charter school or district or school
10 officers or employees; or

11 (2) create any liability for or a cause of action
12 against a school district or open-enrollment charter school or
13 district or school officers or employees.

14 (j) Notwithstanding any other law, this section, including
15 any information or materials developed under this section and the
16 dissemination of information or materials developed under this
17 section, does not create a civil, criminal, or administrative cause
18 of action or liability or create a standard of care, obligation, or
19 duty that provides the basis for a cause of action.

20 SECTION 2. Subchapter A, Chapter 38, Education Code, is
21 amended by adding Section 38.0152 to read as follows:

22 Sec. 38.0152. COMMITTEE TO ASSIST IN UPDATING GUIDELINES
23 FOR CARE OF STUDENTS AT RISK FOR ANAPHYLAXIS. (a) In this section:

24 (1) "Commissioner" means the commissioner of state
25 health services.

26 (2) "Department" means the Department of State Health
27 Services.

1 (3) "Guidelines" means "Guidelines for the Care of
2 Students With Food Allergies At-Risk for Anaphylaxis" on which
3 school district and open-enrollment charter school policies for the
4 care of students with a diagnosed food allergy at risk for
5 anaphylaxis are based as provided by Section 38.0151.

6 (b) The commissioner shall appoint members to an ad hoc
7 committee to consult with the commissioner on updating the current
8 guidelines to incorporate and specifically reference any new
9 food-allergy management best practices and treatments, including
10 new methods, treatments, and therapies to reduce the risk of
11 allergic reactions.

12 (c) The committee must include:

13 (1) not more than:

14 (A) one representative from:

15 (i) the department; and

16 (ii) the Texas Nurses Association; and

17 (B) one physician who is a member of the American
18 Academy of Allergy, Asthma & Immunology;

19 (2) at least two individuals from one or more national
20 patient advocacy organizations representing the interests of food
21 allergies, anaphylaxis, and related medical issues, including
22 asthma;

23 (3) one principal of a public elementary school campus
24 at which one or more students with a diagnosed food allergy at risk
25 for anaphylaxis are enrolled;

26 (4) one classroom teacher employed at a public
27 elementary school campus at which one or more students with a

1 diagnosed food allergy at risk for anaphylaxis are enrolled;

2 (5) one superintendent of a school district;

3 (6) one member of a board of trustees of a school
4 district;

5 (7) one member of a governing body of an
6 open-enrollment charter school;

7 (8) at least two parents of public school students
8 with a diagnosed food allergy at risk for anaphylaxis; and

9 (9) at least five physicians trained to diagnose,
10 treat, and manage allergies with experience in new and emerging
11 allergy management best practices and treatments, including new
12 methods, treatments, and therapies to reduce the risk of allergic
13 reactions, including anaphylaxis.

14 (d) Ad hoc committee members shall serve for a period
15 determined by the commissioner. On the resignation of a member of
16 the committee or the removal of a member from the committee by the
17 commissioner, the commissioner shall appoint a new member to the
18 committee who qualifies for the committee in the same manner that
19 the member who resigned or is removed qualified.

20 (e) Section 2110.005, Government Code, does not apply to the
21 ad hoc committee appointed under this section.

22 (f) The physicians appointed to serve on the ad hoc
23 committee shall provide to the committee appropriate
24 recommendations to be made to the commissioner on updating the
25 current guidelines, including any new food-allergy management best
26 practices and treatments, including new methods, treatments, and
27 therapies to reduce the risk of allergic reactions.

1 (g) At least once every three years, the commissioner shall
2 order a meeting of the committee to update the guidelines to
3 incorporate any new food-allergy management best practices and
4 treatments.

5 (h) The commissioner may order a meeting of the committee at
6 any time the commissioner determines necessary for the committee
7 to:

8 (1) discuss the protection of students with food
9 allergies at risk for anaphylaxis; and

10 (2) update the guidelines.

11 SECTION 3. The commissioner of state health services shall:

12 (1) not later than October 1, 2019, appoint the
13 members of the ad hoc committee described by Section 38.0152,
14 Education Code, as added by this Act, to consult with the
15 commissioner on updating and maintaining the "Guidelines for the
16 Care of Students With Food Allergies At-Risk for Anaphylaxis" as
17 provided by that section; and

18 (2) not later than March 1, 2020, in consultation with
19 the ad hoc committee, update the guidelines as necessary.

20 SECTION 4. This Act takes effect immediately if it receives
21 a vote of two-thirds of all the members elected to each house, as
22 provided by Section 39, Article III, Texas Constitution. If this
23 Act does not receive the vote necessary for immediate effect, this
24 Act takes effect September 1, 2019.