

AN ACT

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

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

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

(a) The board of trustees of each school district and the governing body or an appropriate officer of each open-enrollment charter school shall adopt and administer a policy for the care of students with a diagnosed food allergy at risk for anaphylaxis based on "Guidelines for the Care of Students With Food Allergies At-Risk for Anaphylaxis" ~~[guidelines]~~ developed by the commissioner of state health services under this section and updated by the commissioner of state health services in consultation with an ad hoc committee appointed by the commissioner of state health services as provided by Section 38.0152. The guidelines and any recommendation to update the guidelines regarding medical treatment or therapy must be scientifically valid.

(b) A school district or open-enrollment charter school ~~[that implemented a policy for the care of students with a diagnosed food allergy at risk for anaphylaxis before the development of the~~

1 ~~guidelines described by Subsection (a)]~~ shall annually review [~~the~~  
2 ~~policy]~~ and, as necessary, revise its [~~the]~~ policy for the care of  
3 students with a diagnosed food allergy at risk for anaphylaxis [~~as~~  
4 ~~necessary]~~ to ensure the policy is consistent with the most current  
5 version of the guidelines described by Subsection (a).

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

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

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

1           (1) require a school district or open-enrollment  
2 charter school to purchase treatments approved by the United States  
3 Food and Drug Administration or make any other expenditure that  
4 would result in a negative fiscal impact on the district or school;  
5 or

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

10           (i) This section does not:

11           (1) waive any liability or immunity of a school  
12 district or open-enrollment charter school or district or school  
13 officers or employees; or

14           (2) create any liability for or a cause of action  
15 against a school district or open-enrollment charter school or  
16 district or school officers or employees.

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

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

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

27           (1) "Commissioner" means the commissioner of state

1 health services.

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

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

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

15 (c) The committee must include:

16 (1) not more than one representative from:

17 (A) the department; and

18 (B) the Texas Nurses Association;

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;

9 (9) at least four physicians board certified in  
10 allergy and immunology by the American Board of Allergy and  
11 Immunology; and

12 (10) at least one physician board certified in general  
13 pediatrics by the American Board of Pediatrics who is a member of a  
14 statewide pediatric organization.

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

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

23 (f) Any recommendations on updating the current guidelines  
24 regarding medical treatment or therapies must be submitted by the  
25 physicians directly to the commissioner, provided that those  
26 recommendations may only be submitted to the commissioner if  
27 approved by a majority of the physicians serving on the committee.

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.

S.B. No. 869

\_\_\_\_\_  
President of the Senate

\_\_\_\_\_  
Speaker of the House

I hereby certify that S.B. No. 869 passed the Senate on May 10, 2019, by the following vote: Yeas 31, Nays 0.

\_\_\_\_\_  
Secretary of the Senate

I hereby certify that S.B. No. 869 passed the House on May 22, 2019, by the following vote: Yeas 138, Nays 6, two present not voting.

\_\_\_\_\_  
Chief Clerk of the House

Approved:

\_\_\_\_\_  
Date

\_\_\_\_\_  
Governor