

1-1 By: Zaffirini S.B. No. 869
 1-2 (In the Senate - Filed February 19, 2019; March 1, 2019,
 1-3 read first time and referred to Committee on Education;
 1-4 April 30, 2019, reported adversely, with favorable Committee
 1-5 Substitute by the following vote: Yeas 9, Nays 1; April 30, 2019,
 1-6 sent to printer.)

1-7 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-8 Taylor	X			
1-9 Lucio			X	
1-10 Bettencourt	X			
1-11 Campbell	X			
1-12 Fallon	X			
1-13 Hall		X		
1-14 Hughes	X			
1-15 Paxton	X			
1-16 Powell	X			
1-17 Watson	X			
1-18 West	X			

1-20 COMMITTEE SUBSTITUTE FOR S.B. No. 869 By: Watson

1-21 A BILL TO BE ENTITLED
 1-22 AN ACT

1-23 relating to guidelines for policies of school districts and
 1-24 open-enrollment charter schools for the care of certain students at
 1-25 risk for anaphylaxis.

1-26 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-27 SECTION 1. Section 38.0151, Education Code, is amended by
 1-28 amending Subsections (a), (b), and (e) and adding Subsections (g),
 1-29 (h), (i), and (j) to read as follows:

1-30 (a) The board of trustees of each school district and the
 1-31 governing body or an appropriate officer of each open-enrollment
 1-32 charter school shall adopt and administer a policy for the care of
 1-33 students with a diagnosed food allergy at risk for anaphylaxis
 1-34 based on "Guidelines for the Care of Students With Food Allergies
 1-35 At-Risk for Anaphylaxis" ~~[guidelines]~~ developed by the
 1-36 commissioner of state health services under this section and
 1-37 updated by the commissioner of state health services in
 1-38 consultation with an ad hoc committee appointed by the commissioner
 1-39 of state health services as provided by Section 38.0152.

1-40 (b) A school district or open-enrollment charter school
 1-41 ~~[that implemented a policy for the care of students with a diagnosed~~
 1-42 ~~food allergy at risk for anaphylaxis before the development of the~~
 1-43 ~~guidelines described by Subsection (a)]~~ shall annually review ~~[the~~
 1-44 ~~policy]~~ and, as necessary, revise its ~~[the]~~ policy for the care of
 1-45 students with a diagnosed food allergy at risk for anaphylaxis ~~[as~~
 1-46 ~~necessary]~~ to ensure the policy is consistent with the most current
 1-47 version of the guidelines described by Subsection (a).

1-48 (e) The agency shall post the guidelines described by
 1-49 Subsection (a) ~~[developed by the commissioner of state health~~
 1-50 ~~services under this section]~~ on the agency's website with any other
 1-51 information relating to students with special health needs. The
 1-52 information posted by the agency must include a summary of the
 1-53 guidelines. The agency shall annually review and, as necessary,
 1-54 revise the summary and any other information to reflect the most
 1-55 current version of the guidelines.

1-56 (g) Each school year, the board of trustees of each school
 1-57 district and the governing body of each open-enrollment charter
 1-58 school shall post a summary of the guidelines on the district's or
 1-59 school's Internet website, including instructions on obtaining
 1-60 access to the complete guidelines document. The district's or

2-1 school's website must be accessible by each student enrolled in the
2-2 district or school and a parent or guardian of each student. Any
2-3 forms used by a district or school requesting information from a
2-4 parent or guardian enrolling a child with a food allergy in the
2-5 district or school must include information to access on the
2-6 district's or school's Internet website a summary of the guidelines
2-7 and instructions on obtaining access to the complete guidelines
2-8 document.

2-9 (h) The guidelines described by Subsection (a) may not:
2-10 (1) require a school district or open-enrollment
2-11 charter school to purchase treatments approved by the United States
2-12 Food and Drug Administration or make any other expenditure that
2-13 would result in a negative fiscal impact on the district or school;
2-14 or

2-15 (2) require the personnel of a district or school to
2-16 administer treatments approved by the United States Food and Drug
2-17 Administration to a student unless the medication is prescribed for
2-18 that student by the student's physician.

2-19 (i) This section does not:
2-20 (1) waive any liability or immunity of a school
2-21 district or open-enrollment charter school or district or school
2-22 officers or employees; or

2-23 (2) create any liability for or a cause of action
2-24 against a school district or open-enrollment charter school or
2-25 district or school officers or employees.

2-26 (j) Notwithstanding any other law, this section, including
2-27 any information or materials developed under this section and the
2-28 dissemination of information or materials developed under this
2-29 section, does not create a civil, criminal, or administrative cause
2-30 of action or liability or create a standard of care, obligation, or
2-31 duty that provides the basis for a cause of action.

2-32 SECTION 2. Subchapter A, Chapter 38, Education Code, is
2-33 amended by adding Section 38.0152 to read as follows:

2-34 Sec. 38.0152. COMMITTEE TO ASSIST IN UPDATING GUIDELINES
2-35 FOR CARE OF STUDENTS AT RISK FOR ANAPHYLAXIS. (a) In this section:

2-36 (1) "Commissioner" means the commissioner of state
2-37 health services.

2-38 (2) "Department" means the Department of State Health
2-39 Services.

2-40 (3) "Guidelines" means "Guidelines for the Care of
2-41 Students With Food Allergies At-Risk for Anaphylaxis" on which
2-42 school district and open-enrollment charter school policies for the
2-43 care of students with a diagnosed food allergy at risk for
2-44 anaphylaxis are based as provided by Section 38.0151.

2-45 (b) The commissioner shall appoint members to an ad hoc
2-46 committee to consult with the commissioner on updating the current
2-47 guidelines to incorporate and specifically reference any new
2-48 food-allergy management best practices and treatments, including
2-49 new methods, treatments, and therapies to reduce the risk of
2-50 allergic reactions.

2-51 (c) The committee must include:

2-52 (1) not more than:
2-53 (A) one representative from:
2-54 (i) the department; and
2-55 (ii) the Texas Nurses Association; and
2-56 (B) one physician who is a member of the American
2-57 Academy of Allergy, Asthma & Immunology;

2-58 (2) at least two individuals from one or more national
2-59 patient advocacy organizations representing the interests of food
2-60 allergies, anaphylaxis, and related medical issues, including
2-61 asthma;

2-62 (3) one principal of a public elementary school campus
2-63 at which one or more students with a diagnosed food allergy at risk
2-64 for anaphylaxis are enrolled;

2-65 (4) one classroom teacher employed at a public
2-66 elementary school campus at which one or more students with a
2-67 diagnosed food allergy at risk for anaphylaxis are enrolled;

2-68 (5) one superintendent of a school district;
2-69 (6) one member of a board of trustees of a school

3-1 district;
 3-2 (7) one member of a governing body of an
 3-3 open-enrollment charter school;
 3-4 (8) at least two parents of public school students
 3-5 with a diagnosed food allergy at risk for anaphylaxis; and
 3-6 (9) at least five physicians trained to diagnose,
 3-7 treat, and manage allergies with experience in new and emerging
 3-8 allergy management best practices and treatments, including new
 3-9 methods, treatments, and therapies to reduce the risk of allergic
 3-10 reactions, including anaphylaxis.

3-11 (d) Ad hoc committee members shall serve for a period
 3-12 determined by the commissioner. On the resignation of a member of
 3-13 the committee or the removal of a member from the committee by the
 3-14 commissioner, the commissioner shall appoint a new member to the
 3-15 committee who qualifies for the committee in the same manner that
 3-16 the member who resigned or is removed qualified.

3-17 (e) Section 2110.005, Government Code, does not apply to the
 3-18 ad hoc committee appointed under this section.

3-19 (f) The physicians appointed to serve on the ad hoc
 3-20 committee shall provide to the committee appropriate
 3-21 recommendations to be made to the commissioner on updating the
 3-22 current guidelines, including any new food-allergy management best
 3-23 practices and treatments, including new methods, treatments, and
 3-24 therapies to reduce the risk of allergic reactions.

3-25 (g) At least once every three years, the commissioner shall
 3-26 order a meeting of the committee to update the guidelines to
 3-27 incorporate any new food-allergy management best practices and
 3-28 treatments.

3-29 (h) The commissioner may order a meeting of the committee at
 3-30 any time the commissioner determines necessary for the committee
 3-31 to:

3-32 (1) discuss the protection of students with food
 3-33 allergies at risk for anaphylaxis; and

3-34 (2) update the guidelines.

3-35 SECTION 3. The commissioner of state health services shall:

3-36 (1) not later than October 1, 2019, appoint the
 3-37 members of the ad hoc committee described by Section 38.0152,
 3-38 Education Code, as added by this Act, to consult with the
 3-39 commissioner on updating and maintaining the "Guidelines for the
 3-40 Care of Students With Food Allergies At-Risk for Anaphylaxis" as
 3-41 provided by that section; and

3-42 (2) not later than March 1, 2020, in consultation with
 3-43 the ad hoc committee, update the guidelines as necessary.

3-44 SECTION 4. This Act takes effect immediately if it receives
 3-45 a vote of two-thirds of all the members elected to each house, as
 3-46 provided by Section 39, Article III, Texas Constitution. If this
 3-47 Act does not receive the vote necessary for immediate effect, this
 3-48 Act takes effect September 1, 2019.

3-49 * * * * *