88R7559 LRM-D

By:  Cortez 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 adding Subdivision (3-a) to read as follows:

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

SECTION 3.  Sections 38.202(a) and (b), Education Code, are amended to read as follows:

(a)  The commissioner of state health services shall establish an advisory committee to examine and review the administration of epinephrine auto-injectors to a person experiencing an anaphylactic reaction, and opioid antagonists to a person experiencing an apparent opioid-related drug overdose, on a campus of a school district, an open-enrollment charter school, a private school, or an institution of higher education.

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

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

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

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

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

SECTION 4.  Section 38.207, Education Code, is amended to read as follows:

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

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

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

(3)  a plan for:

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

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

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

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

SECTION 5.  The heading to Section 38.208, Education Code, is amended to read as follows:

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

SECTION 6.  Sections 38.208(a), (b), (c), (d), and (e), Education Code, are amended to read as follows:

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

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

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

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

(c)  The executive commissioner of the Health and Human Services Commission, in consultation with the commissioner of education, and with advice from the advisory committee as appropriate, shall adopt rules regarding the maintenance, administration, and disposal of an epinephrine auto-injector and opioid antagonist at a school campus subject to a policy adopted under Subsection (a) and the maintenance and administration of asthma medicine at a school campus subject to a policy adopted under Subsection (a-1). The rules must establish:

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

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

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

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

(d)  Each school district, open-enrollment charter school, and private school that adopts a policy under Subsection (a) must require that each campus have one or more school personnel members or school volunteers authorized and trained to administer an epinephrine auto-injector or an opioid antagonist, as applicable, present during all hours the campus is open.

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

SECTION 7.  Section 38.209, Education Code, is amended to read as follows:

Sec. 38.209.  REPORT ON ADMINISTERING EPINEPHRINE AUTO-INJECTOR OR OPIOID ANTAGONIST. (a) Not later than the 10th business day after the date a school personnel member or school volunteer administers an epinephrine auto-injector or opioid antagonist in accordance with a policy adopted under Section 38.208(a), the school shall report the information required under Subsection (b) to:

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

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

(3)  the commissioner of state health services.

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

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

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

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

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

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

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

SECTION 8.  Sections 38.210(a) and (b), Education Code, are amended to read as follows:

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

(b)  Training required under this section must:

(1)  include information on:

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

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

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

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

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

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

SECTION 9.  The heading to Section 38.211, Education Code, is amended to read as follows:

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

SECTION 10.  Sections 38.211(a), (b), (c), (e), and (f), Education Code, are amended to read as follows:

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

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

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

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

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

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

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

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

(2)  the name of the school district, open-enrollment charter school, or private school to which the order is issued;

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

(4)  the date of issue.

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

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

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

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

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

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

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

(5)  dispensing:

(A)  an epinephrine auto-injector; [~~or~~]

(B)  an opioid antagonist; or

(C)  asthma medicine, provided that permission has been granted as provided by Section 38.208(b-1);

(6)  administering, or assisting in administering, an epinephrine auto-injector, an opioid antagonist, or asthma medicine, provided that permission has been granted as provided by Section 38.208(b-1);

(7)  providing, or assisting in providing, training, consultation, or advice in the development, adoption, or implementation of policies, guidelines, rules, or plans; or

(8)  undertaking any other act permitted or required under this subchapter.

SECTION 12.  Chapter 51, Education Code, is amended by adding Subchapter Y-2 to read as follows:

SUBCHAPTER Y-2. PROVIDING OPIOID ANTAGONISTS

Sec. 51.891.  DEFINITIONS. In this subchapter:

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

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

(3)  "Institution of higher education" and "private or independent institution of higher education" have the meanings assigned by Section 61.003.

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

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

Sec. 51.892.  REQUIRED POLICY REGARDING OPIOID ANTAGONISTS. (a) Each institution of higher education or private or independent institution of higher education shall adopt and implement a policy providing for:

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

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

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

(c)  The commissioner of the Texas Higher Education Coordinating Board with advice from the commissioner of state health services shall adopt rules regarding the maintenance, storage, administration, and disposal of an opioid antagonist to be used on the campus of an institution subject to a policy adopted under Subsection (a). The rules must establish:

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

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

(d)  Each institution shall include the policy on opioid antagonists in the institution's student handbook or similar publication and publish the policy on the institution's Internet website.

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

Sec. 51.893.  REPORT ON ADMINISTERING OPIOID ANTAGONIST. (a) Not later than the 10th business day after the date an employee or student volunteer administers an opioid antagonist in accordance with a policy adopted under Section 51.892, the institution of higher education or private or independent institution of higher education shall report the information required under Subsection (b) to the physician who prescribed the opioid antagonist.

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

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

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

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

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

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

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

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

(b)  Training required under this section must:

(1)  include information on:

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

(B)  administering an opioid antagonist;

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

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

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

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

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

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

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

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

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

(1)  periodically reviews the order; and

(2)  is available through direct telecommunication as needed for consultation, assistance, and direction.

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

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

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

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

(4)  the date of issue.

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

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

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

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

(1)  issuing an order for opioid antagonists;

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

(3)  possessing an opioid antagonist;

(4)  maintaining an opioid antagonist;

(5)  storing an opioid antagonist;

(6)  disposing of an opioid antagonist;

(7)  prescribing an opioid antagonist;

(8)  dispensing an opioid antagonist;

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

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

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

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

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

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

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

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

(1)  is immune from civil liability, and from criminal liability for offenses under Section 481.115(b), 481.1151(b)(1), 481.116(b), 481.1161(b)(1) or (2), 481.117(b), 481.118(b), 481.119(b), 481.121(b)(1) or (2), 481.125(a), 483.041(a), or 485.031(a), Health and Safety Code, that might otherwise be incurred or imposed as a result of those actions; and

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

SECTION 13.  This Act applies beginning with the 2023-2024 school year or academic year, as applicable.

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