88R20867 CXP-F

By:  Menéndez, et al. S.B. No. 629

(Talarico, Oliverson, Leo-Wilson, Howard, Zwiener, et al.)

Substitute the following for S.B. No. 629:

By:  Buckley C.S.S.B. No. 629

A BILL TO BE ENTITLED

AN ACT

relating to the maintenance, administration, and disposal of opioid antagonists on public and private school campuses and to the permissible uses of money appropriated to a state agency from the opioid abatement account.

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

SECTION 1.  Chapter 38, Education Code, is amended by adding Subchapter E-1 to read as follows:

SUBCHAPTER E-1. MAINTENANCE, ADMINISTRATION, AND DISPOSAL OF OPIOID ANTAGONISTS

Sec. 38.221.  DEFINITIONS. In this subchapter:

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

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

Sec. 38.222.  MAINTENANCE, ADMINISTRATION, AND DISPOSAL OF OPIOID ANTAGONISTS. (a) Each school district shall adopt and implement a policy regarding the maintenance, administration, and disposal of opioid antagonists at each campus in the district that serves students in grades 6 through 12 and may adopt and implement such a policy at each campus in the district, including campuses serving students in a grade level below grade 6.

(b)  An open-enrollment charter school or private school may adopt and implement a policy regarding the maintenance, administration, and disposal of opioid antagonists. If a school adopts a policy under this subsection, the school may apply the policy:

(1)  only at campuses of the school serving students in grades 6 through 12; or

(2)  at each campus of the school, including campuses serving students in a grade level below grade 6.

(c)  A policy adopted under this section must:

(1)  provide that school personnel and school 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;

(2)  require that each school campus subject to a policy adopted under this section have one or more school personnel members or school volunteers authorized and trained to administer an opioid antagonist present during regular school hours;

(3)  establish the number of opioid antagonists that must be available at each campus at any given time; and

(4)  require that the supply of opioid antagonists at each school campus subject to a policy adopted under this section must be stored in a secure location and be easily accessible to school personnel and school volunteers authorized and trained to administer an opioid antagonist.

(d)  The executive commissioner of the Health and Human Services Commission, in consultation with the commissioner of education, shall adopt rules regarding the maintenance, administration, and disposal of opioid antagonists at a school campus subject to a policy adopted under this section.  The rules must establish:

(1)  the process for checking the inventory of opioid antagonists at regular intervals for expiration and replacement; and

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

Sec. 38.223.  REPORT ON ADMINISTERING OPIOID ANTAGONIST. (a) Not later than the 10th business day after the date a school personnel member or school volunteer administers an opioid antagonist in accordance with a policy adopted under Section 38.222(a) or (b), the school shall report the information required under Subsection (b) of this section 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 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 opioid antagonist;

(2)  whether the person who received the administration of the opioid antagonist was a student, a school personnel member or school volunteer, or a 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 education.

Sec. 38.224.  TRAINING. (a) Each school district, open-enrollment charter school, and private school that adopts a policy under Section 38.222(a) or (b) is responsible for training school personnel and school 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; and

(D)  properly disposing of used or expired 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.

(c)  Each school district, open-enrollment charter school, or private school that adopts a policy under Section 38.222(a) or (b) must maintain records on the training required under this section.

Sec. 38.225.  PRESCRIPTION OF OPIOID ANTAGONISTS. (a) A physician or person who has been delegated prescriptive authority under Chapter 157, Occupations Code, may prescribe opioid antagonists in the name of a school district, open-enrollment charter school, or private school.

(b)  A physician or other person who prescribes opioid antagonists under Subsection (a) shall provide the school district, open-enrollment charter school, or private school with a standing order for the administration of an opioid antagonist to a person reasonably believed to be experiencing an opioid-related drug overdose.

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

(d)  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.

(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 opioid antagonists to be obtained and maintained under the order; and

(4)  the date of issue.

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

Sec. 38.226.  GIFTS, GRANTS, AND DONATIONS. A school district, open-enrollment charter school, or private school may accept gifts, grants, donations, and federal and local funds to implement this subchapter.

Sec. 38.227.  IMMUNITY FROM LIABILITY. (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 opioid antagonists;

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

(3)  possessing, maintaining, storing, or disposing of an opioid antagonist;

(4)  prescribing an opioid antagonist;

(5)  dispensing an opioid antagonist;

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

(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.

(b)  The immunities and protections provided by this subchapter are in addition to other immunities 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 a basis for a cause of action for an act or omission under this subchapter.

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

(e)  A school district, open-enrollment charter school, or private school and school personnel and school volunteers are immune from suit resulting from an act, or failure to act, under this subchapter, including an act or failure to act under related policies and procedures.

(f)  An act or failure to act by school personnel or a school volunteer under this subchapter, including an act or failure to act under related policies and procedures, is the exercise of judgment or discretion on the part of the school personnel or school volunteer and is not considered to be a ministerial act for purposes of liability of the school district, open-enrollment charter school, or private school.

Sec. 38.228.  RULES. Except as otherwise provided by this subchapter, the commissioner of education and the executive commissioner of the Health and Human Services Commission shall jointly adopt rules necessary to implement this subchapter.

SECTION 2.  Section 403.505(d), Government Code, is amended to read as follows:

(d)  A state agency may use money appropriated from the account only to:

(1)  prevent opioid use disorder through evidence-based education and prevention, such as school-based prevention, early intervention, or health care services or programs intended to reduce the risk of opioid use by school-age children;

(2)  support efforts to prevent or reduce deaths from opioid overdoses or other opioid-related harms, including through increasing the availability or distribution of naloxone or other opioid antagonists for use by:

(A)  health care providers;

(B)  [~~,~~] first responders;

(C)  [~~,~~] persons experiencing an opioid overdose;

(D)  [~~,~~] families;

(E)  [~~,~~] schools, including under a policy adopted under Subchapter E-1, Chapter 38, Education Code, regarding the maintenance, administration, and disposal of opioid antagonists;

(F)  community-based service providers;

(G)  [~~,~~] social workers;[~~,~~] or

(H)  other members of the public;

(3)  create and provide training on the treatment of opioid addiction, including the treatment of opioid dependence with each medication approved for that purpose by the United States Food and Drug Administration, medical detoxification, relapse prevention, patient assessment, individual treatment planning, counseling, recovery supports, diversion control, and other best practices;

(4)  provide opioid use disorder treatment for youths and adults, with an emphasis on programs that provide a continuum of care that includes screening and assessment for opioid use disorder and co-occurring behavioral health disorders, early intervention, contingency management, cognitive behavioral therapy, case management, relapse management, counseling services, and medication-assisted treatments;

(5)  provide patients suffering from opioid dependence with access to all medications approved by the United States Food and Drug Administration for the treatment of opioid dependence and relapse prevention following opioid detoxification, including opioid agonists, partial agonists, and antagonists;

(6)  support efforts to reduce the abuse or misuse of addictive prescription medications, including tools used to give health care providers information needed to protect the public from the harm caused by improper use of those medications;

(7)  support treatment alternatives that provide both psychosocial support and medication-assisted treatments in areas with geographical or transportation-related challenges, including providing access to mobile health services and telemedicine, particularly in rural areas;

(8)  address:

(A)  the needs of persons involved with criminal justice; and

(B)  rural county unattended deaths; or

(9)  further any other purpose related to opioid abatement authorized by appropriation.

SECTION 3.  Not later than November 1, 2023:

(1)  the executive commissioner of the Health and Human Services Commission shall, in consultation with the commissioner of education, adopt rules required under Section 38.222, Education Code, as added by this Act; and

(2)  the commissioner of education and the executive commissioner of the Health and Human Services Commission shall jointly adopt rules necessary to implement Subchapter E-1, Chapter 38, Education Code, as added by this Act.

SECTION 4.  Notwithstanding the effective date of this Act, a school district is not required to comply with Section 38.222, Education Code, as added by this Act, before January 1, 2024.

SECTION 5.  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.