

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.

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

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

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

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

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

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

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

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

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

27 (3) a plan for:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

27 (3) the process for each school district,

1 open-enrollment charter school, and private school to check the
2 inventory of epinephrine auto-injectors, opioid antagonists, and
3 asthma medicine at regular intervals for expiration and
4 replacement; and

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

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

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

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

23 Sec. 38.209. REPORT ON ADMINISTERING EPINEPHRINE
24 AUTO-INJECTOR OR OPIOID ANTAGONIST. (a) Not later than the 10th
25 business day after the date a school personnel member or school
26 volunteer administers an epinephrine auto-injector or opioid
27 antagonist in accordance with a policy adopted under Section

1 38.208(a), the school shall report the information required under
2 Subsection (b) to:

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

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

8 (3) the commissioner of state health services.

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

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

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

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

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

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

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

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

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

6 (b) Training required under this section must:

7 (1) include information on:

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

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

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

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

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

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

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

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

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

27 (a) A physician or person who has been delegated

1 prescriptive authority under Chapter 157, Occupations Code, may
2 prescribe epinephrine auto-injectors, opioid antagonists, or
3 asthma medicine in the name of a school district, open-enrollment
4 charter school, or private school.

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

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

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

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

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

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

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

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

26 (3) the quantity of epinephrine auto-injectors,
27 opioid antagonists, or asthma medicine to be obtained and

1 maintained under the order; and

2 (4) the date of issue.

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

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

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

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

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

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

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

24 (5) dispensing:

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

26 (B) an opioid antagonist; or

27 (C) asthma medicine, provided that permission

1 has been granted as provided by Section 38.208(b-1);

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

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

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

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

13 SUBCHAPTER Y-2. PROVIDING OPIOID ANTAGONISTS

14 Sec. 51.891. DEFINITIONS. In this subchapter:

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

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

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

27 (4) "Opioid antagonist" and "opioid-related drug

1 overdose" have the meanings assigned by Section 483.101, Health and
2 Safety Code.

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

5 Sec. 51.892. REQUIRED POLICY REGARDING OPIOID ANTAGONISTS.

6 (a) Each institution of higher education or private or independent
7 institution of higher education shall adopt and implement a policy
8 providing for:

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

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

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

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

26 (1) the process for each institution to check the
27 inventory of opioid antagonists at regular intervals for expiration

1 and replacement; and

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

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

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

12 Sec. 51.893. REPORT ON ADMINISTERING OPIOID ANTAGONIST.

13 (a) Not later than the 10th business day after the date an employee
14 or student volunteer administers an opioid antagonist in accordance
15 with a policy adopted under Section 51.892, the institution of
16 higher education or private or independent institution of higher
17 education shall report the information required under Subsection
18 (b) to the physician who prescribed the opioid antagonist.

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

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

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

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

27 (4) the number of doses of opioid antagonist

1 administered;

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

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

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

10 (b) Training required under this section must:

11 (1) include information on:

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

14 (B) administering an opioid antagonist;

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

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

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

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

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

27 (c) Each institution shall maintain records on the training

1 required under this section.

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

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

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

16 (1) periodically reviews the order; and

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

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

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

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

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

27 (4) the date of issue.

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

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

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

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

14 (1) issuing an order for opioid antagonists;
15 (2) supervising or delegating the administration of an
16 opioid antagonist;

17 (3) possessing an opioid antagonist;

18 (4) maintaining an opioid antagonist;

19 (5) storing an opioid antagonist;

20 (6) disposing of an opioid antagonist;

21 (7) prescribing an opioid antagonist;

22 (8) dispensing an opioid antagonist;

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

25 (10) providing, or assisting in providing, training,
26 consultation, or advice in the development, adoption, or
27 implementation of policies, guidelines, rules, or plans regarding

1 the availability and use of an opioid antagonist; or

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

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

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

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

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

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

22 (1) is immune from civil liability, and from criminal
23 liability for offenses under Section [481.115\(b\)](#), [481.1151\(b\)\(1\)](#),
24 [481.116\(b\)](#), [481.1161\(b\)\(1\)](#) or (2), [481.117\(b\)](#), [481.118\(b\)](#),
25 [481.119\(b\)](#), [481.121\(b\)\(1\)](#) or (2), [481.125\(a\)](#), [483.041\(a\)](#), or
26 [485.031\(a\)](#), Health and Safety Code, that might otherwise be
27 incurred or imposed as a result of those actions; and

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

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

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