

By: Johnson, et al.
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S.B. No. 294

A BILL TO BE ENTITLED

1 AN ACT
2 relating to the use of epinephrine auto-injectors and medication
3 designated for treatment of respiratory distress on public and
4 private school campuses.

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

6 SECTION 1. The heading to Subchapter E, Chapter 38,
7 Education Code, is amended to read as follows:

8 SUBCHAPTER E. MAINTENANCE AND ADMINISTRATION OF EPINEPHRINE
9 AUTO-INJECTORS AND MEDICATION FOR RESPIRATORY DISTRESS [~~ASTHMA~~
10 ~~MEDICINE~~]

11 SECTION 2. Section 38.201, Education Code, is amended by
12 adding Subdivision (3-a) to read as follows:

13 (3-a) "Medication for respiratory distress" means
14 albuterol, levalbuterol, or another medication designated by the
15 executive commissioner of the Health and Human Services Commission
16 for treatment of respiratory distress under Section 38.208(c).

17 SECTION 3. Section 38.202(a), Education Code, is amended to
18 read as follows:

19 (a) The commissioner of state health services shall
20 establish an advisory committee to examine and review the
21 administration, on a campus of a school district, an
22 open-enrollment charter school, a private school, or an institution
23 of higher education, of:

24 (1) epinephrine auto-injectors to a person

1 experiencing an anaphylactic reaction; and

2 (2) medication for respiratory distress to a person
3 experiencing respiratory distress [~~on a campus of a school~~
4 ~~district, an open-enrollment charter school, a private school, or~~
5 ~~an institution of higher education~~].

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

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

11 (1) the storage and maintenance of epinephrine
12 auto-injectors and medication for respiratory distress on school
13 campuses and campuses of institutions of higher education;

14 (2) the training of school personnel and school
15 volunteers, and of personnel and volunteers at institutions of
16 higher education, in the administration of an epinephrine
17 auto-injector;

18 (3) the training of school personnel and school
19 volunteers, and of personnel and volunteers at institutions of
20 higher education, in the administration of a medication for
21 respiratory distress; and

22 (4) [~~(3)~~] a plan for:

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

26 (B) one or more school personnel members or
27 school volunteers trained in the administration of medication for

1 respiratory distress to be on each school campus;

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

6 (D) one or more personnel members or volunteers
7 of an institution of higher education trained in the administration
8 of medication for respiratory distress to be on each campus of an
9 institution of higher education.

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

12 Sec. 38.208. MAINTENANCE AND ADMINISTRATION OF EPINEPHRINE
13 AUTO-INJECTORS AND MEDICATION FOR RESPIRATORY DISTRESS [~~ASTHMA~~
14 ~~MEDICINE~~].

15 SECTION 6. Section 38.208, Education Code, is amended by
16 amending Subsections (a-1), (b-1), (c), (e), and (f) and adding
17 Subsections (b-2), (b-3), (d-1), (d-2), and (e-1) to read as
18 follows:

19 (a-1) Each school district, open-enrollment charter school,
20 and private school may adopt and implement a policy regarding the
21 maintenance, administration, and disposal of medication for
22 respiratory distress [~~authorizing a school nurse to maintain and~~
23 ~~administer asthma medicine~~] at each campus in the district or
24 school.

25 (b-1) If a policy is adopted under Subsection (a-1), the
26 policy must provide that school personnel and school volunteers who
27 are authorized and trained [~~the school nurse~~] may administer

1 medication for respiratory distress [~~prescription asthma medicine~~
2 to a person reasonably believed to be experiencing respiratory
3 distress on [~~student only if the school nurse has written~~
4 ~~notification from a parent or guardian of the student that the~~
5 ~~student has been diagnosed as having asthma and stating that the~~
6 ~~school nurse may administer prescription asthma medicine to the~~
7 ~~student. A school nurse may administer the prescription asthma~~
8 ~~medicine only at~~] a school campus, or at a school-sponsored or
9 school-related activity on or off school property.

10 (b-2) If medication for respiratory distress is
11 administered to a student whose parent or guardian has not provided
12 notification to the school that the student has been diagnosed with
13 asthma, the school must refer the student to the student's primary
14 care provider on the day the medication for respiratory distress is
15 administered and inform the student's parent or guardian regarding
16 the referral. The referral must include:

- 17 (1) the symptoms of respiratory distress observed;
18 (2) the name of the medication for respiratory
19 distress administered to the student; and
20 (3) any patient care instructions given to the
21 student.

22 (b-3) If a student who has received medication for
23 respiratory distress does not have a primary care provider or the
24 parent or guardian of the student has not engaged a primary care
25 provider for the student, the student's parent or guardian must
26 receive information to assist the parent or guardian in selecting a
27 primary care provider for the student.

1 (c) The executive commissioner of the Health and Human
2 Services Commission, in consultation with the commissioner of
3 education, and with advice from the advisory committee as
4 appropriate, shall adopt rules regarding the maintenance,
5 administration, and disposal of an epinephrine auto-injector at a
6 school campus subject to a policy adopted under Subsection (a) and
7 the maintenance, ~~and~~ administration, and disposal of medication
8 for respiratory distress ~~[asthma medicine]~~ at a school campus
9 subject to a policy adopted under Subsection (a-1). The rules must
10 establish:

11 (1) the number of epinephrine auto-injectors
12 available at each campus;

13 (2) the amount of medication for respiratory distress
14 ~~[prescription asthma medicine]~~ available at each campus;

15 (3) the process for each school district,
16 open-enrollment charter school, and private school to check the
17 inventory of epinephrine auto-injectors and medication for
18 respiratory distress ~~[asthma medicine]~~ at regular intervals for
19 expiration and replacement; ~~and~~

20 (4) the amount of training required for school
21 personnel and school volunteers to administer:

22 (A) an epinephrine auto-injector; or

23 (B) medication for respiratory distress; and

24 (5) the types of medication that may be administered
25 under Subsection (b-1) to persons experiencing respiratory
26 distress, based on a review of the best available medical evidence.

27 (d-1) Each school district, open-enrollment charter school,

1 and private school that adopts a policy under Subsection (a-1) must
2 require that each campus have one or more school personnel or school
3 volunteers authorized and trained to administer medication for
4 respiratory distress present during regular school hours.

5 (d-2) A school personnel member or school volunteer may not
6 be subject to any penalty or disciplinary action for refusing to
7 administer or receive training to administer epinephrine
8 auto-injectors or medication for respiratory distress, as
9 applicable, in accordance with a policy adopted under Subsection
10 (a) or (a-1).

11 (e) The supply of epinephrine auto-injectors at each campus
12 must be stored in a secure location and be easily accessible to
13 school personnel and school volunteers authorized and trained to
14 administer an epinephrine auto-injector. [~~The supply of asthma~~
15 ~~medicine at each campus must be stored in a secure location and be~~
16 ~~easily accessible to the school nurse.~~]

17 (e-1) The supply of medication for respiratory distress at
18 each campus must be stored in a secure location and be easily
19 accessible to authorized school personnel and school volunteers.

20 (f) The policy described by Subsection (a-1) may not require
21 a school district, open-enrollment charter school, or private
22 school to purchase medication for respiratory distress
23 [~~prescription asthma medicine~~] or require any other expenditure
24 related to the maintenance or administration of medication for
25 respiratory distress [~~asthma medicine~~] that would result in a
26 negative fiscal impact on the district or school.

27 SECTION 7. Subchapter E, Chapter 38, Education Code, is

1 amended by adding Section 38.2091 to read as follows:

2 Sec. 38.2091. REPORT ON ADMINISTERING MEDICATION FOR
3 RESPIRATORY DISTRESS. (a) Not later than the 10th business day
4 after the date a school personnel member or school volunteer
5 administers medication for respiratory distress to a person
6 experiencing respiratory distress in accordance with a policy
7 adopted under Section 38.208(a-1), the school shall report the
8 information required under Subsection (b) to:

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

12 (2) the physician or other person who prescribed the
13 medication for respiratory distress; and

14 (3) the commissioner of state health services.

15 (b) The report required under this section must include:

16 (1) the age of the person who received the
17 administration of the medication for respiratory distress;

18 (2) whether the person who received the administration
19 of the medication for respiratory distress was a student, a school
20 personnel member or school volunteer, or a visitor;

21 (3) the dosage of the medication for respiratory
22 distress administered;

23 (4) the title of the person who administered the
24 medication for respiratory distress; and

25 (5) any other information required by the commissioner
26 of education.

27 SECTION 8. Section 38.210, Education Code, is amended by

1 amending Subsections (a) and (b) and adding Subsection (a-1) to
2 read as follows:

3 (a) Each school district, open-enrollment charter school,
4 and private school that adopts a policy under Section 38.208(a) is
5 responsible for training school personnel and school volunteers in
6 the administration of an epinephrine auto-injector. The training
7 must include information on:

- 8 (1) recognizing the signs and symptoms of anaphylaxis;
- 9 (2) administering an epinephrine auto-injector;
- 10 (3) implementing emergency procedures, if necessary,
11 after administering an epinephrine auto-injector; and
- 12 (4) properly disposing of used or expired epinephrine
13 auto-injectors.

14 (a-1) Each school district, open-enrollment charter school,
15 and private school that adopts a policy under Section 38.208(a-1)
16 is responsible for training school personnel and school volunteers
17 in the administration of medication for respiratory distress. The
18 training must include information on:

- 19 (1) recognizing the signs and symptoms of respiratory
20 distress;
- 21 (2) administering medication for respiratory
22 distress;
- 23 (3) implementing emergency procedures, if necessary,
24 after administering medication for respiratory distress; and
- 25 (4) proper sanitization, reuse, and disposal of
26 medication for respiratory distress.

27 (b) Training required under this section must be provided:

1 (1) [~~include information on:~~
2 [~~(A) recognizing the signs and symptoms of~~
3 ~~anaphylaxis;~~
4 [~~(B) administering an epinephrine auto-injector;~~
5 [~~(C) implementing emergency procedures, if~~
6 ~~necessary, after administering an epinephrine auto-injector; and~~
7 [~~(D) properly disposing of used or expired~~
8 ~~epinephrine auto-injectors;~~

9 [~~(2) be provided~~] in a formal training session or
10 through online education; and

11 (2) [~~(3) be provided~~] in accordance with the policy
12 adopted under Section [21.4515](#).

13 SECTION 9. The heading to Section [38.211](#), Education Code,
14 is amended to read as follows:

15 Sec. 38.211. PRESCRIPTION OF EPINEPHRINE AUTO-INJECTORS
16 AND MEDICATION FOR RESPIRATORY DISTRESS [~~ASTHMA MEDICINE~~].

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

19 (a) A physician or person who has been delegated
20 prescriptive authority under Chapter [157](#), Occupations Code, may
21 prescribe epinephrine auto-injectors or medication for respiratory
22 distress [~~asthma medicine~~] in the name of a school district,
23 open-enrollment charter school, or private school.

24 (b) A physician or other person who prescribes epinephrine
25 auto-injectors or medication for respiratory distress [~~asthma~~
26 ~~medicine~~] under Subsection (a) shall provide the school district,
27 open-enrollment charter school, or private school with a standing

1 order for the administration of, as applicable:

2 (1) an epinephrine auto-injector to a person
3 reasonably believed to be experiencing anaphylaxis; or

4 (2) medication for respiratory distress [~~asthma~~
5 ~~medicine~~] to a person reasonably believed to be experiencing
6 respiratory distress [~~a symptom of asthma and who has provided~~
7 ~~written notification and permission as required by Section~~
8 ~~38.208(b-1)~~].

9 (c) The standing order under Subsection (b) is not required
10 to be patient-specific, and the epinephrine auto-injector or
11 medication for respiratory distress [~~asthma medicine~~] may be
12 administered to a person without a previously established
13 physician-patient relationship.

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

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

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

19 (3) as applicable, the quantity of epinephrine
20 auto-injectors or the quantity and types of medications for
21 respiratory distress [~~asthma medicine~~] to be obtained and
22 maintained under the order; and

23 (4) the date of issue.

24 (f) A pharmacist may dispense an epinephrine auto-injector
25 or medication for respiratory distress [~~asthma medicine~~] to a
26 school district, open-enrollment charter school, or private school
27 without requiring the name or any other identifying information

1 relating to the user.

2 SECTION 11. Section 38.212, Education Code, is amended to
3 read as follows:

4 Sec. 38.212. NOTICE TO PARENTS; WRITTEN CONSENT. (a) If a
5 school district, open-enrollment charter school, or private school
6 implements a policy under this subchapter, the district or school
7 shall:

8 (1) provide written notice of the policy to a parent or
9 guardian of each student enrolled in the district or school; and

10 (2) obtain written consent from a parent or guardian
11 of each student on the student's enrollment in the district or
12 school to administer an epinephrine auto-injector or medication for
13 respiratory distress, as applicable, to the student in accordance
14 with the policy.

15 (b) Notice required under Subsection (a)(1) [~~this section~~]
16 must be provided before a policy is implemented by the district or
17 school under this subchapter and before the start of each school
18 year.

19 (c) Subsection (a)(2) does not prohibit a school personnel
20 member or school volunteer from administering in good faith an
21 epinephrine auto-injector to a student reasonably believed to be
22 experiencing anaphylaxis or medication for respiratory distress to
23 a student reasonably believed to be experiencing respiratory
24 distress, as applicable, in accordance with a policy implemented
25 under this subchapter, regardless of whether the student's parent
26 or guardian has provided written consent under Subsection (a)(2).

27 SECTION 12. Section 38.215(a), Education Code, is amended

1 to read as follows:

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

6 (1) issuing an order for epinephrine auto-injectors or
7 medication for respiratory distress [~~asthma medicine~~];

8 (2) supervising or delegating the administration of an
9 epinephrine auto-injector or medication for respiratory distress
10 [~~asthma medicine~~];

11 (3) possessing, maintaining, storing, or disposing of
12 an epinephrine auto-injector or medication for respiratory
13 distress [~~asthma medicine~~];

14 (4) prescribing an epinephrine auto-injector or
15 medication for respiratory distress [~~asthma medicine~~];

16 (5) dispensing:

17 (A) an epinephrine auto-injector; or

18 (B) medication for respiratory distress [~~asthma~~
19 ~~medicine, provided that permission has been granted as provided by~~
20 ~~Section 38.208(b-1)~~];

21 (6) administering, or assisting in administering, an
22 epinephrine auto-injector or medication for respiratory distress
23 [~~asthma medicine, provided that permission has been granted as~~
24 ~~provided by Section 38.208(b-1)~~];

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

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

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