

By: Johnson

S.B. No. 294

A BILL TO BE ENTITLED

AN ACT

relating to the use of medication designated for treatment of respiratory distress on public and private school campuses.

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 OF EPINEPHRINE
AUTO-INJECTORS AND MEDICATION FOR RESPIRATORY DISTRESS [~~ASTHMA~~
~~MEDICINE~~]

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

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

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

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

(1) epinephrine auto-injectors to a person experiencing an anaphylactic reaction; and

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

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

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

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

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

17 (2-a) the training of school personnel and school
18 volunteers, and of personnel and volunteers at institutions of
19 higher education, in the administration of a medication for
20 respiratory distress; and

21 (3) a plan for:

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

25 (B) one or more school personnel members or
26 school volunteers trained in the administration of medication for
27 respiratory distress to be on each school campus;

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

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

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

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

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

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

23 (b-1) If a policy is adopted under Subsection (a-1), the
24 policy must provide that school personnel and school volunteers who
25 are authorized and trained [~~the school nurse~~] may administer
26 medication for respiratory distress [~~prescription asthma medicine~~]
27 to a person reasonably believed to be experiencing respiratory

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

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

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

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

26 (c) The executive commissioner of the Health and Human
27 Services Commission, in consultation with the commissioner of

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

9 (1) the number of epinephrine auto-injectors
10 available at each campus;

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

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

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

20 (A) an epinephrine auto-injector; or

21 (B) medication for respiratory distress; and

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

25 (d-1) Each school district, open-enrollment charter school,
26 and private school that adopts a policy under Subsection (a-1) must
27 require that each campus have one or more school personnel or school

1 volunteers authorized and trained to administer medication for
2 respiratory distress present during regular school hours.

3 (e) The supply of epinephrine auto-injectors at each campus
4 must be stored in a secure location and be easily accessible to
5 school personnel and school volunteers authorized and trained to
6 administer an epinephrine auto-injector. [~~The supply of asthma~~
7 ~~medicine at each campus must be stored in a secure location and be~~
8 ~~easily accessible to the school nurse.~~]

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

12 (f) The policy described by Subsection (a-1) may not require
13 a school district, open-enrollment charter school, or private
14 school to purchase medication for respiratory distress
15 [~~prescription asthma medicine~~] or require any other expenditure
16 related to the maintenance or administration of medication for
17 respiratory distress [~~asthma medicine~~] that would result in a
18 negative fiscal impact on the district or school.

19 SECTION 7. Subchapter E, Chapter 38, Education Code, is
20 amended by adding Section 38.2091 to read as follows:

21 Sec. 38.2091. REPORT ON ADMINISTERING MEDICATION FOR
22 RESPIRATORY DISTRESS. (a) Not later than the 10th business day
23 after the date a school personnel member or school volunteer
24 administers medication for respiratory distress to a person
25 experiencing respiratory distress in accordance with a policy
26 adopted under Section 38.208(a-1), the school shall report the
27 information required under Subsection (b) to:

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

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

6 (3) the commissioner of state health services.

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

8 (1) the age of the person who received the
9 administration of the medication for respiratory distress;

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

13 (3) the dosage of the medication for respiratory
14 distress administered;

15 (4) the title of the person who administered the
16 medication for respiratory distress; and

17 (5) any other information required by the commissioner
18 of education.

19 SECTION 8. Section 38.210, Education Code, is amended by
20 amending Subsections (a) and (b) and adding Subsection (a-1) to
21 read as follows:

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

27 (1) recognizing the signs and symptoms of anaphylaxis;

- 1 (2) administering an epinephrine auto-injector;
- 2 (3) implementing emergency procedures, if necessary,
- 3 after administering an epinephrine auto-injector; and
- 4 (4) properly disposing of used or expired epinephrine
- 5 auto-injectors.

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

- 11 (1) recognizing the signs and symptoms of respiratory
- 12 distress;
- 13 (2) administering medication for respiratory
- 14 distress;
- 15 (3) implementing emergency procedures, if necessary,
- 16 after administering medication for respiratory distress; and
- 17 (4) proper sanitization, reuse, and disposal of
- 18 medication for respiratory distress.

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

- 20 (1) [~~include information on:~~
- 21 [~~(A) recognizing the signs and symptoms of~~
- 22 ~~anaphylaxis,~~
- 23 [~~(B) administering an epinephrine auto-injector,~~
- 24 [~~(C) implementing emergency procedures, if~~
- 25 ~~necessary, after administering an epinephrine auto-injector, and~~
- 26 [~~(D) properly disposing of used or expired~~
- 27 ~~epinephrine auto-injectors,~~

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

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

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

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

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

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

16 (b) A physician or other person who prescribes epinephrine
17 auto-injectors or medication for respiratory distress ~~[asthma~~
18 ~~medicine]~~ under Subsection (a) shall provide the school district,
19 open-enrollment charter school, or private school with a standing
20 order for the administration of, as applicable:

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

23 (2) medication for respiratory distress ~~[asthma~~
24 ~~medicine]~~ to a person reasonably believed to be experiencing
25 respiratory distress ~~[a symptom of asthma and who has provided~~
26 ~~written notification and permission as required by Section~~
27 [38.208\(b-1\)](#)].

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

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

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

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

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

15 (4) the date of issue.

16 (f) A pharmacist may dispense an epinephrine auto-injector
17 or medication for respiratory distress [~~asthma medicine~~] to a
18 school district, open-enrollment charter school, or private school
19 without requiring the name or any other identifying information
20 relating to the user.

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

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

27 (1) issuing an order for epinephrine auto-injectors or

1 medication for respiratory distress [~~asthma medicine~~];

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

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

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

10 (5) dispensing:

11 (A) an epinephrine auto-injector; or

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

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

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

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

24 SECTION 12. This Act takes effect immediately if it
25 receives a vote of two-thirds of all the members elected to each
26 house, as provided by Section 39, Article III, Texas Constitution.
27 If this Act does not receive the vote necessary for immediate

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1 effect, this Act takes effect September 1, 2023.