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SENATE BILL 75

51ST LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2014

INTRODUCED BY

Mark Moores

AN ACT

RELATING TO PUBLIC HEALTH; REQUIRING THE DEPARTMENT OF HEALTH TO PROMULGATE RULES REGARDING THE USE OF ALBUTEROL TO TREAT RESPIRATORY DISTRESS AND THE USE OF EPINEPHRINE TO TREAT ANAPHYLACTIC REACTIONS IN SCHOOLS; PROVIDING FOR THE STOCK SUPPLY OF ALBUTEROL AND EPINEPHRINE IN SCHOOLS; PROVIDING FOR SCHOOL POLICIES REGARDING THE USE OF EPINEPHRINE IN SCHOOLS; PROVIDING FOR IMMUNITY FROM CIVIL LIABILITY FOR GOOD-FAITH COMPLIANCE.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

SECTION 1. A new section of the Public School Code is enacted to read:

"[NEW MATERIAL] SHORT TITLE.--Sections 1 through 4 of this act may be cited as the "Emergency Medication in Schools Act"."

SECTION 2. A new section of the Public School Code is

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1 enacted to read:

2 "[NEW MATERIAL] DEFINITIONS.--As used in the Emergency
3 Medication in Schools Act:

4 A. "albuterol" includes albuterol or another
5 inhaled bronchodilator, as recommended by the department of
6 health, for the treatment of respiratory distress;

7 B. "albuterol aerosol canister" means a portable
8 drug delivery device packaged with multiple premeasured doses
9 of albuterol;

10 C. "anaphylaxis" or "anaphylactic reaction" means a
11 sudden, severe and potentially life-threatening whole-body
12 allergic reaction;

13 D. "emergency medication" means albuterol or
14 epinephrine;

15 E. "epinephrine" includes epinephrine or another
16 medication, as recommended by the department of health, used to
17 treat anaphylaxis until the immediate arrival of emergency
18 medical system responders;

19 F. "epinephrine auto-injector" means a portable,
20 disposable drug delivery device that contains a premeasured
21 single dose of epinephrine;

22 G. "health care practitioner" means a person
23 authorized by the state to prescribe emergency medication;

24 H. "respiratory distress" includes impaired
25 oxygenation of the blood or impaired ventilation of the

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1 respiratory system;

2 I. "spacer" means a holding chamber that is used to
3 optimize the delivery of albuterol to a person's lungs;

4 J. "stock supply" means an appropriate quantity of
5 emergency medication, as recommended by the department of
6 health; and

7 K. "trained personnel" means a school employee,
8 agent or volunteer who has completed epinephrine administration
9 training documented by the school nurse, school principal or
10 school leader and approved by the department of health and who
11 has been designated by the school principal or school leader to
12 administer epinephrine on a voluntary basis outside of the
13 scope of employment."

14 SECTION 3. A new section of the Public School Code is
15 enacted to read:

16 "[NEW MATERIAL] EMERGENCY MEDICATION--ALBUTEROL--
17 EPINEPHRINE--STOCK SUPPLY--STORAGE.--

18 A. Each local school board or governing body of a
19 charter school may obtain a standing order for and may provide
20 to schools within its jurisdiction a stock supply of albuterol
21 aerosol canisters and spacers prescribed in the name of the
22 school or school district by a health care practitioner
23 employed or authorized by the department of health. Each
24 school that receives a stock supply of albuterol aerosol
25 canisters and spacers pursuant to this subsection shall store

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1 them:

2 (1) in a secure location that is unlocked and
3 readily accessible to a school nurse or another person
4 authorized by the department of health to administer albuterol;

5 (2) pursuant to board of pharmacy regulations;
6 and

7 (3) within the manufacturer-recommended
8 temperature range.

9 B. Each local school board or governing body of a
10 charter school may obtain a standing order for and may provide
11 to schools within its jurisdiction a stock supply of standard-
12 dose and pediatric-dose epinephrine auto-injectors prescribed
13 in the name of each school by a health care practitioner
14 employed or authorized by the department of health. Each
15 school that receives a stock supply of standard-dose and
16 pediatric-dose epinephrine auto-injectors pursuant to this
17 subsection shall store them:

18 (1) in a secure location that is unlocked and
19 readily accessible to trained personnel;

20 (2) pursuant to board of pharmacy regulations;
21 and

22 (3) within the manufacturer-recommended
23 temperature range.

24 C. Each local school board or governing body of a
25 charter school shall dispose of expired emergency medication

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1 pursuant to board of pharmacy regulations or department of
2 health rules.

3 D. A local school board or governing body of a
4 charter school or a school within its jurisdiction may accept
5 gifts, grants, bequests and donations from any source to carry
6 out the provisions of the Emergency Medication in Schools Act,
7 including the acceptance of albuterol aerosol canisters and
8 spacers and epinephrine auto-injectors from a manufacturer or
9 wholesaler."

10 SECTION 4. A new section of the Public School Code is
11 enacted to read:

12 "[NEW MATERIAL] LOCAL SCHOOL BOARD OR GOVERNING BODY OF A
13 CHARTER SCHOOL--EMERGENCY MEDICATION--PROTOCOLS AND POLICIES--
14 TRAINING.--

15 A. Each local school board or governing body of a
16 charter school that provides to schools within its jurisdiction
17 a stock supply of albuterol aerosol canisters and spacers shall
18 develop policies, based on department of health rules and
19 recommendations, for a school nurse or another person
20 authorized by the department of health to administer albuterol
21 to a student who is perceived to be in respiratory distress,
22 regardless of whether the student has been identified or
23 documented as having asthma, has a prescription for albuterol
24 or has supplied the school with albuterol. Such policies shall
25 include procedures to:

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1 (1) recognize the symptoms of respiratory
2 distress;

3 (2) immediately call 911 to initiate an
4 emergency medical system;

5 (3) administer albuterol using a spacer;

6 (4) notify the parent, guardian or legal
7 custodian of the student having respiratory distress; and

8 (5) continue to monitor the student's
9 condition and deliver any additional treatment indicated until
10 an emergency medical system responder arrives.

11 B. Each local school board or governing body of a
12 charter school that provides to schools within its jurisdiction
13 a stock supply of standard-dose and pediatric-dose epinephrine
14 auto-injectors shall develop policies based on the protocols in
15 this section and department of health rules and
16 recommendations, publish the policies on its web site and
17 receive documentation that trained personnel have received
18 training to:

19 (1) administer epinephrine to a student who is
20 reasonably believed to be having an anaphylactic reaction,
21 regardless of whether the student has been identified or
22 documented as having a severe allergy, has a prescription for
23 epinephrine or has supplied the school with epinephrine auto-
24 injectors; and

25 (2) follow an anaphylaxis action protocol to:

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- 1 (a) recognize symptoms of anaphylaxis;
2 (b) immediately call 911 to initiate an
3 emergency medical system;
4 (c) administer an epinephrine auto-
5 injector to a student reasonably believed to be having an
6 anaphylactic reaction;
7 (d) notify the parent, guardian or legal
8 custodian of the student having an anaphylactic reaction;
9 (e) continue to monitor the student's
10 condition and deliver any additional treatment indicated until
11 an emergency medical system responder arrives; and
12 (f) take any other necessary actions
13 based on training completed pursuant to the Emergency
14 Medication in Schools Act.

15 C. Each school that receives a stock supply of
16 standard-dose and pediatric-dose epinephrine auto-injectors
17 shall:

- 18 (1) develop and implement a plan to have one
19 or more trained personnel on the school premises during
20 operating hours; and
21 (2) follow an anaphylactic reaction prevention
22 protocol, as recommended by the department of health, to
23 minimize an allergic student's exposure to food allergies."

24 SECTION 5. A new section of the Public Health Act is
25 enacted to read:

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1 "[NEW MATERIAL] EMERGENCY MEDICATION IN SCHOOLS--

2 ALBUTEROL--EPINEPHRINE--RULES--RECOMMENDATIONS.--

3 A. By July 1, 2014, the department shall promulgate
4 rules and make recommendations to each school district and
5 governing body of a school for the prevention and treatment of
6 respiratory distress and the administration of albuterol, or
7 such other medication as the department deems appropriate, by a
8 school nurse or other person authorized by the department.

9 B. By July 1, 2014, the department shall promulgate
10 rules and make recommendations to each school district and
11 governing body of a school for the prevention and treatment of
12 anaphylaxis occurring in schools and for the use of
13 epinephrine, or such other medication as the department deems
14 appropriate, by a person who has received training approved by
15 the department and is authorized to administer epinephrine
16 pursuant to the Emergency Medication in Schools Act. The rules
17 shall address:

18 (1) the provision or administration of
19 epinephrine, or such other medication as the department deems
20 appropriate, to a person reasonably believed to be having an
21 anaphylactic reaction;

22 (2) the requirement that one or more trained
23 persons be available on school premises during operating hours
24 to treat a person reasonably believed to be having an
25 anaphylactic reaction;

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1 (3) the maintenance of a stock supply of
2 standard-dose and pediatric-dose epinephrine auto-injectors, or
3 such other medication as the department deems appropriate,
4 pursuant to a standing order prescribed in the name of the
5 school or school district by a health care practitioner
6 employed or authorized by the department;

7 (4) the storage of a stock supply of standard-
8 dose and pediatric-dose epinephrine auto-injectors, or such
9 other medication as the department deems appropriate, in a
10 secure location that is unlocked and readily accessible to
11 trained persons and stored pursuant to board of pharmacy
12 regulations; and

13 (5) the disposal of expired emergency
14 medication pursuant to board of pharmacy regulations or
15 department rules.

16 C. A health care practitioner employed or
17 authorized by the department may prescribe a stock supply of
18 albuterol aerosol canisters and spacers or a stock supply of
19 standard-dose and pediatric-dose epinephrine auto-injectors in
20 the name of a school or school district for use in accordance
21 with the Emergency Medication in Schools Act.

22 D. A pharmacist may dispense a stock supply of
23 albuterol aerosol canisters and spacers or a stock supply of
24 standard-dose and pediatric-dose epinephrine auto-injectors
25 pursuant to a standing order prescribed pursuant to this

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1 section.

2 E. A school or school district may maintain a stock
3 supply of albuterol aerosol canisters and spacers or a stock
4 supply of standard-dose and pediatric-dose epinephrine auto-
5 injectors for use in accordance with this section.

6 F. The department may obtain and receive grants,
7 appropriations, gifts and donations from any source, including
8 the acceptance of epinephrine and albuterol, or such other
9 medication as the department deems appropriate, and albuterol
10 spacers from a manufacturer or wholesaler of such medication."

11 SECTION 6. A new section of the Public Health Act is
12 enacted to read:

13 "[NEW MATERIAL] ADMINISTRATION OF EMERGENCY MEDICATION--
14 EPINEPHRINE--IMMUNITY FROM CIVIL LIABILITY.--

15 A. The prescription, purchase, receipt,
16 maintenance, provision or administration of epinephrine, or
17 such other medication as the department deems appropriate, to a
18 person reasonably believed to be having an anaphylactic
19 reaction:

20 (1) shall not result in any liability for
21 damages for any allegedly resulting injuries; and

22 (2) does not constitute the practice of
23 medicine.

24 B. The immunity provided in this section does not
25 apply to acts or omissions constituting gross, willful or

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