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

.195376.2
enacted to read:

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

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

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

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

D. "emergency medication" means albuterol or epinephrine;

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

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

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

H. "respiratory distress" includes impaired oxygenation of the blood or impaired ventilation of the
respiratory system;

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

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

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

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

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

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

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

(2) pursuant to board of pharmacy regulations;

and

(3) within the manufacturer-recommended temperature range.

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

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

(2) pursuant to board of pharmacy regulations;

and

(3) within the manufacturer-recommended temperature range.

C. Each local school board or governing body of a charter school shall dispose of expired emergency medication
pursuant to board of pharmacy regulations or department of health rules.

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

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

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

A. Each local school board or governing body of a charter school that provides to schools within its jurisdiction a stock supply of albuterol aerosol canisters and spacers shall develop policies, based on department of health rules and recommendations, for a school nurse or another person authorized by the department of health to administer albuterol to a student who is perceived to be in respiratory distress, regardless of whether the student has been identified or documented as having asthma, has a prescription for albuterol or has supplied the school with albuterol. Such policies shall include procedures to:
(1) recognize the symptoms of respiratory
distress;
(2) immediately call 911 to initiate an
evacuation medical system;
(3) administer albuterol using a spacer;
(4) notify the parent, guardian or legal
custodian of the student having respiratory distress; and
(5) continue to monitor the student's
condition and deliver any additional treatment indicated until
an emergency medical system responder arrives.

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

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

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

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

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

SECTION 5. A new section of the Public Health Act is enacted to read:
"[NEW MATERIAL] EMERGENCY MEDICATION IN SCHOOLS--
ALBUTEROL--EPINEPHRINE--RULES--RECOMMENDATIONS.--

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

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

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

   (2) the requirement that one or more trained
   persons be available on school premises during operating hours
to treat a person reasonably believed to be having an
   anaphylactic reaction;
(3) the maintenance of a stock supply of 
standard-dose and pediatric-dose epinephrine auto-injectors, or 
such other medication as the department deems appropriate,
pursuant to a standing order prescribed in the name of the 
school or school district by a health care practitioner
employed or authorized by the department;

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

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

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

D. A pharmacist may dispense a stock supply of
albuterol aerosol canisters and spacers or a stock supply of
standard-dose and pediatric-dose epinephrine auto-injectors
pursuant to a standing order prescribed pursuant to this
.195376.2
section.

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

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

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

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

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

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

(2) does not constitute the practice of medicine.

B. The immunity provided in this section does not apply to acts or omissions constituting gross, willful or
wanton negligence."

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