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HOUSE BILL 49

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

INTRODUCED BY

James E. Smith

FOR THE LEGISLATIVE HEALTH AND HUMAN SERVICES COMMITTEE

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; REQUIRING THE STOCK SUPPLY OF ALBUTEROL AND EPINEPHRINE IN SCHOOLS; REQUIRING SCHOOL POLICIES REGARDING THE USE OF EPINEPHRINE IN SCHOOLS; PROVIDING FOR IMMUNITY FROM CIVIL LIABILITY FOR GOOD-FAITH COMPLIANCE; MAKING AN APPROPRIATION; DECLARING AN EMERGENCY.

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. By August 1, 2014, each local school board or
19 governing body of a charter school shall obtain a standing
20 order for and shall provide to schools within its jurisdiction
21 a stock supply of albuterol aerosol canisters and spacers
22 prescribed in the name of the school or school district by a
23 health care practitioner employed or authorized by the
24 department of health. Each school shall store a stock supply
25 of albuterol aerosol canisters and spacers:

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

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

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

8 B. By August 1, 2014, each local school board or
9 governing body of a charter school shall obtain a standing
10 order for and shall provide to schools within its jurisdiction
11 a stock supply of standard-dose and pediatric-dose epinephrine
12 auto-injectors prescribed in the name of each school by a
13 health care practitioner employed or authorized by the
14 department of health. Each school shall store a stock supply
15 of standard-dose and pediatric-dose epinephrine auto-injectors:

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

18 (2) pursuant to board of pharmacy regulations;
19 and

20 (3) within the manufacturer-recommended
21 temperature range.

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

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

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

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

13 A. By August 1, 2014, each local school board or
14 governing body of a charter school shall develop policies,
15 based on department of health rules and recommendations, for a
16 school nurse or another person authorized by the department of
17 health to administer albuterol to a student who is perceived to
18 be in respiratory distress, regardless of whether the student
19 has been identified or documented as having asthma, has a
20 prescription for albuterol or has supplied the school with
21 albuterol. Such policies shall include procedures to:

22 (1) recognize the symptoms of respiratory
23 distress;

24 (2) immediately call 911 to initiate an
25 emergency medical system;

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1 (3) administer albuterol using a spacer;

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

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

7 B. By August 1, 2014, each local school board or
8 governing body of a charter school shall develop policies based
9 on the protocols in this section and department of health rules
10 and recommendations, publish the policies on its web site and
11 receive documentation that trained personnel have received
12 training to:

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

19 (2) follow an anaphylaxis action protocol to:
20 (a) recognize symptoms of anaphylaxis;
21 (b) immediately call 911 to initiate an
22 emergency medical system;

23 (c) administer an epinephrine auto-
24 injector to a student reasonably believed to be having an
25 anaphylactic reaction;

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1 (d) notify the parent, guardian or legal
2 custodian of the student having an anaphylactic reaction;

3 (e) continue to monitor the student's
4 condition and deliver any additional treatment indicated until
5 an emergency medical system responder arrives; and

6 (f) take any other necessary actions
7 based on training completed pursuant to the Emergency
8 Medication in Schools Act.

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

12 (1) develop and implement a plan to have one
13 or more trained personnel on the school premises during
14 operating hours; and

15 (2) follow an anaphylactic reaction prevention
16 protocol, as recommended by the department of health, to
17 minimize an allergic student's exposure to food allergies."

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

20 "[NEW MATERIAL] EMERGENCY MEDICATION IN SCHOOLS--
21 ALBUTEROL--EPINEPHRINE--RULES--RECOMMENDATIONS.--

22 A. By July 1, 2014, the department shall promulgate
23 rules and make recommendations to each school district and
24 governing body of a school for the prevention and treatment of
25 respiratory distress and the administration of albuterol, or

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1 such other medication as the department deems appropriate, by a
2 school nurse or another person authorized by the department.

3 B. 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 anaphylaxis occurring in schools and for the use of
7 epinephrine, or such other medication as the department deems
8 appropriate, by a person who has received training approved by
9 the department and is authorized to administer epinephrine
10 pursuant to the Emergency Medication in Schools Act. The rules
11 shall address:

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

16 (2) the requirement that one or more trained
17 persons be available on school premises during operating hours
18 to treat a person reasonably believed to be having an
19 anaphylactic reaction;

20 (3) the maintenance of a stock supply of
21 standard-dose and pediatric-dose epinephrine auto-injectors, or
22 such other medication as the department deems appropriate,
23 pursuant to a standing order prescribed in the name of the
24 school or school district by a health care practitioner
25 employed or authorized by the department;

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

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

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

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

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

25 F. The department may obtain and receive grants,

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1 appropriations, gifts and donations from any source, including
2 the acceptance of epinephrine and albuterol, or such other
3 medication as the department deems appropriate, and albuterol
4 spacers from a manufacturer or wholesaler of such medication."

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

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

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

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

16 (2) does not constitute the practice of
17 medicine.

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

21 SECTION 7. APPROPRIATION.--Four hundred thousand dollars
22 (\$400,000) is appropriated from the general fund to the
23 department of health for expenditure in fiscal year 2015 to
24 provide albuterol aerosol canisters and spacers for the
25 treatment of respiratory distress and standard-dose and

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1 pediatric-dose epinephrine auto-injectors for the treatment of
2 anaphylaxis in schools. Any unexpended or unencumbered balance
3 remaining at the end of fiscal year 2015 shall revert to the
4 general fund.

5 SECTION 8. EMERGENCY.--It is necessary for the public
6 peace, health and safety that this act take effect immediately.