

1 State of Arkansas
2 92nd General Assembly
3 Regular Session, 2019
4

A Bill

HOUSE BILL 1745

5 By: Representatives L. Johnson, J. Mayberry
6 By: Senator Irvin
7

For An Act To Be Entitled

9 AN ACT TO AMEND THE LAWS CONCERNING PRESCRIPTION
10 ASTHMA INHALERS IN SCHOOLS DISTRICTS AND PUBLIC
11 CHARTER SCHOOLS; TO AUTHORIZE A SCHOOL DISTRICT OR
12 PUBLIC CHARTER SCHOOL TO ACQUIRE AND STOCK ALBUTEROL
13 FOR ADMINISTRATION IN CERTAIN SITUATIONS; AND FOR
14 OTHER PURPOSES.
15

Subtitle

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18 TO AMEND THE LAWS CONCERNING PRESCRIPTION
19 ASTHMA INHALERS IN SCHOOLS DISTRICTS AND
20 PUBLIC CHARTER SCHOOLS; AND TO AUTHORIZE
21 ACQUIRING AND STOCKING ALBUTEROL FOR
22 ADMINISTRATION IN CERTAIN SITUATIONS.
23

24
25 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
26

27 SECTION 1. Arkansas Code § 6-18-707(d)-(h), concerning prescription
28 asthma inhalers and auto-injectable epinephrine for students, are amended to
29 read as follows:

30 (d)(1) ~~No~~ A school district, school district employee, or agent of a
31 school district ~~shall be~~ is not liable for injury to a student caused by his
32 or her use of a prescription inhaler or self-administration of medication.

33 (2)(A) Regardless of whether or not a student's parents have
34 signed a waiver of liability, when a school nurse or a school district or
35 public charter school employee who holds a certificate under subsection (f)
36 of this section administers an epinephrine auto-injector to a student whom



1 the school nurse or a school district or public charter school employee in
 2 good faith professionally believes is having an anaphylactic reaction or when
 3 a school nurse or a school district or public charter school employee
 4 administers albuterol to a student who the school nurse or a school district
 5 or public charter school employee in good faith professionally believes is in
 6 perceived respiratory distress, the following persons are immune from any
 7 damage, loss, or liability as a result of an injury arising from the
 8 administration of an epinephrine auto-injector or albuterol:

9 (i) The school district or public charter school;

10 (ii) The employees and agents of the school district
 11 or public charter school; and

12 (iii) A physician providing a standing protocol or
 13 prescription for epinephrine auto-injectors or albuterol maintained at a
 14 school.

15 (B) This subdivision (d)(2) does not provide immunity from
 16 suit or liability for any damage, loss, injury, or liability caused by the
 17 intentional or willful and wanton misconduct of a person in administering an
 18 epinephrine auto-injector or albuterol to a student under this section.

19 (e)(1) A school district or public charter school ~~may~~ shall adopt a
 20 policy to authorize a school nurse or a school district or public charter
 21 school employee to:

22 (A) Provide an epinephrine auto-injector or albuterol to a
 23 student that meets the prescription on file or any personnel ~~authorized under~~
 24 ~~a student's individualized healthcare plan~~ who holds a certificate under
 25 subsection (f) and (g) of this section to administer an epinephrine auto-
 26 injector or albuterol to the student;

27 (B) Administer an epinephrine auto-injector or albuterol
 28 that meets the prescription on file to a student who has an individualized
 29 healthcare plan that authorizes the use of an epinephrine auto-injector or
 30 albuterol; ~~and~~

31 (C) Administer an epinephrine auto-injector to a student
 32 who the school nurse or a school district or public charter school employee
 33 who holds a certificate under subsection (f) of this section in good faith
 34 professionally believes is having an anaphylactic reaction; and

35 (D) Administer albuterol to a student who the school nurse
 36 or a school district or public charter school employee in good faith

1 professionally believes is in perceived respiratory distress.

2 (2) A school nurse shall administer an epinephrine auto-injector
 3 or albuterol under a standing protocol from a physician licensed to practice
 4 medicine in this state.

5 (3) A school nurse ~~that~~ who receives a supply of epinephrine
 6 auto-injectors under § 20-13-405 for use at a public school shall maintain
 7 the supply of epinephrine auto-injectors at the school in a locked, secure
 8 location.

9 ~~(4)(A) Regardless of whether or not a student's parents have~~
 10 ~~signed a waiver of liability, when a school nurse administers an epinephrine~~
 11 ~~auto-injector to a student who the school nurse in good faith professionally~~
 12 ~~believes is having an anaphylactic reaction, the following persons are immune~~
 13 ~~from any damage, loss, or liability as a result of an injury arising from the~~
 14 ~~use of an epinephrine auto-injector:~~

15 ~~(i) The school district or public charter school and~~
 16 ~~its employees and agents; and~~

17 ~~(ii) A physician providing a standing protocol or~~
 18 ~~prescription for epinephrine auto-injectors maintained at a school.~~

19 ~~(B) This subdivision (c)(4) does not provide immunity from~~
 20 ~~suit or liability for any damage, loss, injury, or liability caused by the~~
 21 ~~intentional or willful and wanton misconduct of a person in administering an~~
 22 ~~epinephrine auto-injector to a student under this section.~~

23 ~~(f) Beginning January 1, 2014, a school district or public charter~~
 24 ~~school in this state shall:~~

25 ~~(1) Adopt and implement policies for the possession and~~
 26 ~~administration of epinephrine in each school; and~~

27 ~~(2)(4) Each school district and public charter school shall~~
 28 ~~develop~~ Develop a health plan to implement a certificate from a licensed
 29 physician under ~~subsection (h)~~ subsections (f) and (g) of this section.

30 ~~(g) Epinephrine shall be administered:~~

31 ~~(1) By a:~~

32 ~~(A) School nurse; or~~

33 ~~(B) School district or public charter school employee who~~
 34 ~~holds a certificate under subsection (h) of this section, is trained in the~~
 35 ~~administration of epinephrine, and is designated as a care provider; and~~

36 ~~(2) To a student believed to be having a life-threatening~~

1 ~~anaphylactic reaction.~~

2 ~~(h)(1)(f)(1)~~ A licensed physician shall issue a certificate under the
 3 Insect Sting and Other Allergic Reactions Emergency Treatment Act, § 20-13-
 4 401 et seq., authorizing a school nurse or a school district or public
 5 charter school employee who is trained in the administration of epinephrine
 6 to possess and administer epinephrine.

7 (2) The certificate shall specify the circumstances under which
 8 epinephrine may be administered.

9
 10 SECTION 2. Arkansas Code § 6-18-707, concerning prescription asthma
 11 inhalers and auto-injectable epinephrine for students, is amended to add an
 12 additional subsection to read as follows:

13 (g)(1) A physician who is licensed to practice medicine in this state,
 14 an advanced practice registered nurse, or a physician assistant may issue a
 15 certificate authorizing a school nurse or a school district or public charter
 16 school employee who is trained in the administration of albuterol to possess
 17 and administer albuterol.

18 (2) A school district or public charter school may:

19 (A) Acquire and stock a supply of albuterol as authorized
 20 by subdivision (g)(1) of this section; and

21 (B) Enter into agreements with manufacturers of albuterol
 22 to obtain the albuterol free of charge or at fair market or reduced prices.

23 (3) A school district or public charter school shall designate
 24 an employee trained in the possession and administration of albuterol to be
 25 responsible for the storage, maintenance, and distribution of albuterol
 26 stocked by the school.