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HOUSE BILL 52

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

INTRODUCED BY

Yvette Herrell and 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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