

1 AN ACT relating to student health and safety.

2 ***Be it enacted by the General Assembly of the Commonwealth of Kentucky:***

3 ➔Section 1. KRS 158.832 is amended to read as follows:

4 As used in KRS 158.830 to 158.838:

5 (1) "Anaphylaxis" means an allergic reaction resulting from sensitization following
6 prior contact with an antigen which can be a life-threatening emergency.
7 Anaphylaxis may be triggered by, among other agents, foods, drugs, injections,
8 insect stings, and physical activity.

9 (2) **"Bronchodilator rescue inhaler" means medication used to relieve asthma**
10 **symptoms or an attack along with devices and device components needed to**
11 **appropriately administer the medication.**

12 (3) "Medications" means all medicines individually prescribed by a health care
13 practitioner for the student that pertain to his or her asthma or is used to treat
14 anaphylaxis, including but not limited to [~~EpiPen or other~~] auto-injectible
15 epinephrine **or bronchodilator rescue inhalers;**

16 (4)~~(3)~~ "Health care practitioner" means a physician or other health care provider who
17 has prescriptive authority;

18 (5)~~(4)~~ "Self-administration" means the student's use of his or her prescribed asthma
19 or anaphylaxis medications, pursuant to prescription or written direction from the
20 health care practitioner; and

21 (6)~~(5)~~ "Seizure action plan" means a written, individualized health plan designed to
22 acknowledge and prepare for the health care needs of a student diagnosed with a
23 seizure disorder that is prepared by the student's treating physician.

24 ➔Section 2. KRS 158.836 is amended to read as follows:

25 (1) Upon fulfilling the requirements of KRS 158.834, a student with asthma or a
26 student who is at risk of having anaphylaxis may possess and use medications to
27 treat the asthma or anaphylaxis when at school, at a school-sponsored activity,

1 under the supervision of school personnel, or before and after normal school
2 activities while on school properties including school-sponsored child care or after-
3 school programs.

4 (2) A student who has a documented life-threatening allergy shall have:

5 (a) An epinephrine auto-injector provided by his or her parent or guardian in his
6 or her possession or in the possession of the school nurse, school
7 administrator, or his or her designee in all school environments that the
8 student may be in, including the classroom, the cafeteria, the school bus, and
9 on field trips; and

10 (b) A written individual health care plan in place for the prevention and proactive
11 management for the student in all school environments that the student may be
12 in, including the classroom, the cafeteria, the school bus, and on field trips.
13 The individual health care plan required under this paragraph may be
14 incorporated in the student's individualized education program required under
15 Pub. L. No. 94-142 or the student's 504 plan required under Pub. L. No. 93-
16 112.

17 (3) (a) Each school is encouraged to keep an epinephrine auto-injector in a minimum
18 of two (2) locations in the school, including but not limited to the school
19 office and the school cafeteria, so that epinephrine may be administered to any
20 student believed to be having a life-threatening allergic or anaphylactic
21 reaction. Schools electing to keep epinephrine auto-injectors shall maintain
22 them in a secure, accessible, but unlocked location. The provisions of this
23 paragraph shall apply to the extent that the epinephrine auto-injectors are
24 donated to a school or a school has sufficient funding to purchase the
25 epinephrine auto-injectors.

26 (b) **Each school is encouraged to keep a bronchodilator rescue inhaler in a**
27 **minimum of two (2) locations in the school, including but not limited to the**

1 school office and athletic office, so that bronchodilator rescue inhalers may
 2 be administered to any student believed to be having asthma symptoms or
 3 an attack. Schools electing to keep bronchodilator rescue inhalers shall
 4 maintain them in a secure, accessible, but unlocked location. The
 5 provisions of this paragraph shall apply to the extent that the
 6 bronchodilator rescue inhalers are donated to a school or a school has
 7 sufficient funding to purchase the bronchodilator rescue inhalers.

8 (c) Each school electing to keep epinephrine auto-injectors or bronchodilator
 9 rescue inhalers shall implement policies and procedures for managing a
 10 student's life-threatening allergic reaction, ~~for~~ anaphylactic reaction, or
 11 asthma developed and approved by the local school board.

12 (d)~~(e)~~ The Kentucky Department for Public Health shall develop clinical
 13 protocols in the school health section of the Core Clinical Service Guide
 14 manual that is maintained in the county or district public health department to
 15 address epinephrine auto-injectors and bronchodilator rescue inhalers kept
 16 by schools under this subsection and to advise on clinical administration of
 17 the epinephrine auto-injectors and bronchodilator rescue inhalers. The
 18 protocols shall be developed in collaboration with local health departments or
 19 local clinical providers and local schools and local school districts.

20 (4) Any school employee authorized under KRS 156.502 to administer medication shall
 21 not be liable for any civil damages for ordinary negligence in acts or omissions
 22 resulting from the administration or the assistance in the administration of
 23 epinephrine or a bronchodilator rescue inhaler to any student believed in good
 24 faith to be having a life-threatening allergic or anaphylactic reaction or asthma
 25 symptoms or an attack.

26 ➔Section 3. KRS 311.645 is amended to read as follows:

27 As used in KRS 311.645 to 311.647:

- 1 (1) "Anaphylaxis" means an allergic reaction resulting from sensitization following
2 prior contact with an antigen which can be a life-threatening emergency, including
3 reactions triggered by, among other agents, foods, drugs, injections, insect stings,
4 and physical activity;
- 5 (2) "Administer" means to directly apply an epinephrine auto-injector to the body of an
6 individual;
- 7 (3) **"Asthma" means a respiratory condition marked by coughing, wheezing, or**
8 **shortness of breath often triggered by allergies, exercise, or irritants;**
- 9 **(4)** "Authorized entity" means an entity that may at any time have allergens present that
10 are capable of causing a severe allergic reaction and has an individual who holds a
11 certificate issued under KRS 311.646 on the premises or officially associated with
12 the entity. The term includes but is not limited to licensed child-care centers and
13 certified family child-care homes, restaurants, recreation camps, youth sports
14 leagues, theme parks and resorts, and sports arenas;
- 15 **(5) "Bronchodilator rescue inhaler" means medication used to relieve asthma**
16 **symptoms or an attack along with devices and device components needed to**
17 **appropriately administer the medication;**
- 18 ~~(6)~~~~(4)~~ "Certified individual" means an individual who successfully completes an
19 approved educational training program and **obtains**~~obtain~~ a certificate, as
20 described in KRS 311.646;
- 21 ~~(7)~~~~(5)~~ "Epinephrine auto-injector" means a single-use device used to administer a
22 premeasured dose of epinephrine;
- 23 ~~(8)~~~~(6)~~ "Health-care practitioner" means a physician or other health-care provider
24 who has prescriptive authority; and
- 25 ~~(9)~~~~(7)~~ "Self-administration" means an individual's administration of an epinephrine
26 auto-injector **or bronchodilator rescue inhaler** on herself or himself.
- 27 ➔Section 4. KRS 311.646 is amended to read as follows:

- 1 (1) A health-care practitioner may prescribe epinephrine auto-injectors **and**
2 **bronchodilator rescue inhalers** in the name of an authorized entity or to a certified
3 individual for use in accordance with this section.
- 4 (2) A pharmacist may dispense epinephrine auto-injectors **and bronchodilator rescue**
5 **inhalers** pursuant to a prescription issued in the name of an authorized entity or to a
6 certified individual.
- 7 (3) The Department for Public Health, the Kentucky Board of Medical Licensure, the
8 Kentucky Board of Nursing, the American Red Cross, or other training programs
9 approved by the Department for Public Health may conduct in-person or on-line
10 training for administering lifesaving treatment to persons believed in good faith to
11 be experiencing severe allergic reactions **and asthma symptoms or an attack** and
12 issue a certificate of training to persons completing the training. The training shall
13 include instructions for recognizing the symptoms of anaphylaxis **and asthma** and
14 administering an epinephrine auto-injector **or a bronchodilator rescue inhaler**.
- 15 (4) An individual who has a certificate issued under this section may:
- 16 (a) Receive a prescription for epinephrine auto-injectors **and bronchodilator**
17 **rescue inhalers** from a health-care practitioner;
- 18 (b) Possess prescribed epinephrine auto-injectors **and bronchodilator rescue**
19 **inhalers**; and
- 20 (c) In an emergency situation when a physician is not immediately available and
21 the certified individual in good faith believes a person is experiencing a severe
22 allergic reaction regardless of whether the person has a prescription for an
23 epinephrine auto-injector **or a bronchodilator rescue inhaler** or has
24 previously been diagnosed with an allergy:
- 25 1. Administer an epinephrine auto-injector **or a bronchodilator rescue**
26 **inhaler** to the person; and
- 27 2. Provide an epinephrine auto-injector **or a bronchodilator rescue inhaler**

1 to the person for immediate self-administration.

2 (5) An authorized entity that acquires and stocks a supply of epinephrine auto-injectors
3 **or bronchodilator rescue inhalers** with a valid prescription shall:

4 (a) Store the epinephrine auto-injectors **and bronchodilator rescue inhalers** in
5 accordance with manufacturer's instructions and with any additional
6 requirements established by the department; and

7 (b) Designate an employee or agent who holds a certificate issued under this
8 section to be responsible for the storage, maintenance, and general oversight
9 of epinephrine auto-injectors **and bronchodilator rescue inhalers** acquired by
10 the authorized entity.

11 (6) Any individual or entity who administers or provides an epinephrine auto-injector to
12 a person who is experiencing a severe allergic reaction shall contact the local
13 emergency medical services system as soon as possible.

14 (7) Any individual or entity who acquires and stocks a supply of epinephrine auto-
15 injectors in accordance with this section shall notify an agent of the local emergency
16 medical services system and the local emergency communications or vehicle
17 dispatch center of the existence, location, and type of the epinephrine auto-injectors
18 acquired if a severe allergic reaction has occurred.

19 ➔Section 5. KRS 311.647 is amended to read as follows:

20 (1) Any individual or entity who, in good faith and without compensation, renders
21 emergency care or treatment by the use of an epinephrine auto-injector **or a**
22 **bronchodilator rescue inhaler** shall be immune from civil liability for any personal
23 injury as a result of the care or treatment, or as a result of any act or failure to act in
24 providing or arranging further medical treatment, if the person acts as an ordinary,
25 reasonable prudent person would have acted under the same or similar
26 circumstances.

27 (2) The immunity from civil liability for any personal injury under subsection (1) of this

1 section includes:

- 2 (a) A health-care practitioner who prescribes or authorizes the emergency use of
3 the epinephrine auto-injector **or bronchodilator rescue inhaler;**
- 4 (b) A pharmacist who fills a prescription for the epinephrine auto-injector **or**
5 **bronchodilator rescue inhaler;**
- 6 (c) A certified individual who provides or administers the epinephrine auto-
7 injector **or bronchodilator rescue inhaler;**
- 8 (d) An authorized entity who stores or provides the epinephrine auto-injector **or**
9 **bronchodilator rescue inhaler** to a certified individual or authorized
10 noncertified individual; and
- 11 (e) An individual trainer or training entity providing the certified individual.
- 12 (3) The immunity from civil liability under subsection (1) of this section shall not apply
13 if the personal injury results from the gross negligence or willful or wanton
14 misconduct of the person rendering the emergency care.
- 15 (4) The requirements of KRS 311.646(6) shall not apply to any individual who provides
16 or administers an epinephrine auto-injector **or a bronchodilator rescue inhaler** if
17 that individual is acting as a Good Samaritan under KRS 313.035 and 411.148.