

HOUSE BILL 279

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

INTRODUCED BY

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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; 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 5 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. "governing body" means a local school board or  
23 governing body of a charter school or private school;

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

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1 I. "respiratory distress" includes impaired  
2 oxygenation of the blood or impaired ventilation of the  
3 respiratory system;

4 J. "school" means a public school, charter school  
5 or private school;

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

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

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

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

20 "[NEW MATERIAL] EMERGENCY MEDICATION--STOCK SUPPLY--  
21 STORAGE.--

22 A. By August 1, 2014, each governing body shall  
23 obtain a standing order for and shall provide to schools within  
24 its jurisdiction a stock supply of albuterol aerosol canisters  
25 and spacers prescribed in the name of the school or school

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1 district by a health care practitioner employed or authorized  
2 by the department of health. Each school shall handle and  
3 store a stock supply of albuterol aerosol canisters and  
4 spacers:

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

8 (2) pursuant to board of pharmacy regulations;  
9 and

10 (3) within the manufacturer-recommended  
11 temperature range.

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

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

22 (2) pursuant to board of pharmacy regulations;  
23 and

24 (3) within the manufacturer-recommended  
25 temperature range.

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1 C. Each governing body or school shall dispose of  
2 expired emergency medication pursuant to board of pharmacy  
3 regulations or department of health rules.

4 D. A governing body or a school may accept gifts,  
5 grants, bequests and donations from any source to carry out the  
6 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] GOVERNING BODY--EMERGENCY MEDICATION--  
13 PROTOCOLS AND POLICIES--TRAINING.--

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

- 23 (1) recognize the symptoms of respiratory  
24 distress;  
25 (2) administer albuterol using a spacer;

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1 (3) immediately call 911 to initiate an  
2 emergency medical system;

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

6 (5) notify the parent, guardian or legal  
7 custodian of the student having respiratory distress.

8 B. By August 1, 2014, each governing body shall  
9 develop policies based on the protocols provided in this  
10 section and department of health rules and recommendations,  
11 publish the policies on its web site and receive documentation  
12 that trained personnel have been trained by a school nurse or a  
13 person authorized by the department of health to:

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

20 (2) follow an anaphylaxis action protocol to:  
21 (a) recognize symptoms of anaphylaxis;  
22 (b) administer an epinephrine auto-  
23 injector to a student reasonably believed to be having an  
24 anaphylactic reaction;

25 (c) immediately call 911 to initiate an

1 emergency medical system;

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

5 (e) notify the parent, guardian or legal  
6 custodian of the student having an anaphylactic reaction; and

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

10 C. By August 1, 2014, each governing body shall  
11 develop and provide to schools within its jurisdiction an  
12 anaphylactic reaction prevention protocol based on department  
13 of health recommendations. Each school shall provide training  
14 to school employees and volunteers involved in handling food or  
15 overseeing the service or consumption of food on school  
16 premises, and any other person recommended by the school nurse  
17 to receive training on the anaphylactic reaction prevention  
18 protocol, regardless of whether the school employee, volunteer  
19 or other person has received training to administer  
20 epinephrine. The anaphylactic reaction prevention protocol  
21 training shall include information about:

22 (1) food allergies;

23 (2) conditions that may result in a student  
24 having an anaphylactic reaction;

25 (3) reducing and eliminating conditions that

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1 may result in a student having an anaphylactic reaction; and

2 (4) recognizing the symptoms of anaphylaxis.

3 D. Each school that receives a stock supply of  
4 standard-dose and pediatric-dose epinephrine auto-injectors  
5 shall develop and implement a plan to have one or more trained  
6 personnel on the school premises during operating hours."

7 SECTION 5. A new section of the Public School Code is  
8 enacted to read:

9 "[NEW MATERIAL] EMERGENCY MEDICATION IN SCHOOLS--  
10 REPORTING.--By July 1, 2015 and July 1 of each subsequent year,  
11 each governing body shall use a form provided by the department  
12 of health to report on the:

13 A. incidents, if any, involving:

14 (1) respiratory distress or the administration  
15 of albuterol; and

16 (2) anaphylaxis or the administration of  
17 epinephrine;

18 B. number and dates of trainings pursuant to the  
19 Emergency Medication in Schools Act and number of trained  
20 personnel available for each school; and

21 C. implementation of the Emergency Medication in  
22 Schools Act."

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

25 "[NEW MATERIAL] EMERGENCY MEDICATION IN SCHOOLS--

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1 ALBUTEROL--EPINEPHRINE--RULES--RECOMMENDATIONS.--

2 A. By July 1, 2014, the department shall promulgate  
3 rules and make recommendations to each school district and  
4 governing body of a school for the prevention and treatment of  
5 respiratory distress and the administration of albuterol, or  
6 such other emergency medication as the department deems  
7 appropriate, by a school nurse or another person who has  
8 received training approved by the department and who is  
9 authorized by the department to administer albuterol pursuant  
10 to the Emergency Medication in Schools Act. The rules shall  
11 address:

12 (1) the provision or administration of  
13 albuterol, or such other emergency medication as the department  
14 deems appropriate, to a person reasonably believed to be having  
15 respiratory distress;

16 (2) the requirement that a school nurse or  
17 another person who has received training provided or approved  
18 by the department be available on school premises during  
19 operating hours to treat a person reasonably believed to be  
20 having respiratory distress;

21 (3) the maintenance of a stock supply of  
22 albuterol, or such other emergency medication as the department  
23 deems appropriate, in an appropriate quantity, pursuant to a  
24 standing order prescribed in the name of the school or school  
25 district by a health care practitioner employed or authorized

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1 by the department;

2 (4) the storage of a stock supply of  
3 albuterol, or such other emergency medication as the department  
4 deems appropriate:

5 (a) in a secure location that is  
6 unlocked and readily accessible to a school nurse or another  
7 person who has received training provided or approved by the  
8 department; and

9 (b) pursuant to board of pharmacy  
10 regulations; and

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

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

23 (1) the provision or administration of  
24 epinephrine, or such other emergency medication as the  
25 department deems appropriate, to a person reasonably believed

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1 to be having an anaphylactic reaction;

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

6 (3) the maintenance of a stock supply of  
7 standard-dose and pediatric-dose epinephrine auto-injectors, or  
8 such other emergency medication as the department deems  
9 appropriate, in an appropriate quantity, pursuant to a standing  
10 order prescribed in the name of the school or school district  
11 by a health care practitioner employed or authorized by the  
12 department;

13 (4) the storage of a stock supply of standard-  
14 dose and pediatric-dose epinephrine auto-injectors, or such  
15 other emergency medication as the department deems appropriate:

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

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

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

23 C. By October 1, 2015 and October 1 of each  
24 subsequent year, the department shall provide to the  
25 legislature a summary and an analysis of the department's rules

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1 pursuant to this section and the information received from each  
2 school district and governing body of a school pursuant to the  
3 Emergency Medication in Schools Act and any other information  
4 requested by the legislature.

5 D. A health care practitioner employed or  
6 authorized by the department may prescribe a stock supply of  
7 albuterol aerosol canisters and spacers or a stock supply of  
8 standard-dose and pediatric-dose epinephrine auto-injectors, or  
9 such other emergency medication as the department deems  
10 appropriate, in the name of a school or school district for use  
11 in accordance with the Emergency Medication in Schools Act.

12 E. A pharmacist may dispense a stock supply of  
13 albuterol aerosol canisters and spacers or a stock supply of  
14 standard-dose and pediatric-dose epinephrine auto-injectors, or  
15 such other emergency medication as the department deems  
16 appropriate, pursuant to a standing order prescribed pursuant  
17 to this section.

18 F. A school or school district shall maintain a  
19 stock supply of albuterol aerosol canisters and spacers and a  
20 stock supply of standard-dose and pediatric-dose epinephrine  
21 auto-injectors, or such other emergency medication as the  
22 department deems appropriate, for use in accordance with this  
23 section.

24 G. The department may obtain and receive grants,  
25 appropriations, gifts and donations from any source, including

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1 the acceptance of epinephrine and albuterol, or such other  
2 emergency medication as the department deems appropriate, and  
3 albuterol spacers from a manufacturer or wholesaler of such  
4 medication."

5 SECTION 7. 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 emergency medication as the department deems  
12 appropriate, to a person reasonably believed to be having an  
13 anaphylactic 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 8. EMERGENCY.--It is necessary for the public  
22 peace, health and safety that this act take effect immediately.