

1 **SENATE FLOOR VERSION**

2 March 28, 2024

3 ENGROSSED HOUSE
4 BILL NO. 3034

By: Stinson of the House

and

Pugh of the Senate

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8 An Act relating to schools; creating the Emerson Kate
9 Cole Act; amending 70 O.S. 2021, Section 1-116.3,
10 which relates to school medication policies;
11 requiring school to call 911 if Epinephrine is
12 administered to a student; mandating school to notify
13 parent if student experiences possible allergic
14 reaction; requiring annual training for certain
15 teachers and school employees; prescribing content
16 and method for training; providing for
17 noncodification; providing an effective date; and
18 declaring an emergency.

19 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

20 SECTION 1. NEW LAW A new section of law not to be
21 codified in the Oklahoma Statutes reads as follows:

22 This act shall be known and may be cited as the "Emerson Kate
23 Cole Act".

24 SECTION 2. AMENDATORY 70 O.S. 2021, Section 1-116.3, is
amended to read as follows:

Section 1-116.3 A. Notwithstanding the provisions of Section
1-116.2 of this title, the board of education of each school

1 district shall adopt a policy on or before September 1, 2008, that
2 permits the self-administration of inhaled asthma medication by a
3 student for treatment of asthma, the self-administration of
4 anaphylaxis medication by a student for treatment of anaphylaxis,
5 and the self-administration of replacement pancreatic enzymes by a
6 student for treatment of cystic fibrosis. The policy shall require:

7 1. The parent or guardian of the student to authorize in
8 writing the student's self-administration of medication;

9 2. The parent or guardian of the student to provide to the
10 school a written statement from the physician treating the student
11 that the student has asthma, anaphylaxis, or cystic fibrosis and is
12 capable of, and has been instructed in the proper method of, self-
13 administration of medication;

14 3. The parent or guardian of the student to provide to the
15 school an emergency supply of the student's medication to be
16 administered pursuant to the provisions of Section 1-116.2 of this
17 title;

18 4. The school district to inform the parent or guardian of the
19 student, in writing, that the school district and its employees and
20 agents shall incur no liability as a result of any injury arising
21 from the self-administration of medication by the student; and

22 5. The parent or guardian of the student to sign a statement
23 acknowledging that the school district shall incur no liability as a
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1 result of any injury arising from the self-administration of
2 medication by the student.

3 B. The school board of each school district that elects to
4 stock Epinephrine injectors or inhalers shall amend the policy
5 identified in subsection A of this section.

6 1. The amended policy for Epinephrine injectors shall require:

7 a. the school district to inform the parent or guardian
8 of each student, in writing, that a school nurse or
9 school employee trained by a health care professional
10 or trained in correlation with the State Department of
11 Health's Diabetes Management Annual School Training
12 Program may administer, with parent or guardian
13 permission but without a health care provider order,
14 an Epinephrine injection to a student whom the school
15 nurse or trained school employee in good faith
16 believes is having an anaphylactic reaction,

17 b. a waiver of liability executed by a parent or guardian
18 be on file with the school district prior to the
19 administration of an Epinephrine injection pursuant to
20 paragraph 1 of this subsection, and

21 c. the school district to designate the employee
22 responsible for obtaining the Epinephrine injectors at
23 each school site.

24 2. The amended policy for inhalers shall require:

- 1 a. the school district to inform the parent or guardian
2 of each student, in writing, that a school nurse or
3 school employee trained by a health care professional
4 may administer an inhaler to a student whom the school
5 nurse or trained school employee in good faith
6 believes is having respiratory distress,
7 b. the school district to designate the employee
8 responsible for obtaining the inhalers and spacers or
9 holding chambers at each school site, and
10 c. the school district to notify the parent or guardian
11 of a student after administration of an inhaler.

12 C. The school district and its employees and agents shall incur
13 no liability as a result of any injury arising pursuant to the
14 discharge or nondischarge of the powers provided for pursuant to
15 subparagraph a of paragraphs 1 and 2 of subsection B of this
16 section.

17 D. A licensed physician who has prescriptive authority may
18 write a prescription for Epinephrine injectors and inhalers and
19 spacers or holding chambers to the school district in the name of
20 the district as a body corporate specified in Section 5-105 of this
21 title which shall be maintained at each school site. Such physician
22 shall incur no liability as a result of any injury arising from the
23 use of the Epinephrine injectors or the inhalers and spacers or
24 holding chambers.

1 E. The school district may maintain at each school a minimum of
2 two Epinephrine injectors and two inhalers with spacers or holding
3 chambers in a secure location. Provided, however, that nothing in
4 this section shall be construed as creating or imposing a duty on a
5 school district to maintain Epinephrine injectors or inhalers with
6 spacers or holding chambers at a school site or sites.

7 F. In the event a student is believed to be having an
8 anaphylactic reaction or respiratory distress, a school employee
9 shall contact 911 as soon as possible. If Epinephrine is
10 administered to a student, a school employee shall contact 911 as
11 soon as possible. The school district shall notify the parent or
12 guardian of any student who experiences a possible allergic reaction
13 as soon as possible.

14 G. The State Board of Education, in consultation with the State
15 Board of Health, shall develop model policies which school districts
16 may use in compliance with this section. The model policies shall
17 include, at a minimum, required annual training for teachers and
18 school employees who are directly responsible for students on the
19 topics of food allergies, recognizing anaphylaxis, and instruction
20 on how to administer Epinephrine. The training shall be completed
21 before the school year begins or upon hiring the teacher or school
22 employee. Documentation certifying completion of the required
23 training shall be retained in the personnel file for the teacher or
24 school employee. The training may be provided online or in-person

1 by the school nurse or a recognized food allergy and anaphylaxis
2 training program.

3 H. The State Board of Education, in consultation with the State
4 Board of Health, shall promulgate rules to implement this section.

5 I. As used in this section:

6 1. "Medication" means a metered dose inhaler or a dry powder
7 inhaler to alleviate asthmatic symptoms, prescribed by a physician
8 and having an individual label, an anaphylaxis medication used to
9 treat anaphylaxis including but not limited to Epinephrine injectors
10 prescribed by a physician and having an individual label, or
11 replacement pancreatic enzymes prescribed by a physician and having
12 an individual label; and

13 2. "Self-administration" means a student's use of medication
14 pursuant to prescription or written direction from a physician.

15 3. "Respiratory distress" means the perceived or actual
16 presence of coughing, wheezing or shortness of breath; and

17 4. "Inhaler" means a device that delivers a bronchodilator to
18 alleviate symptoms of respiratory distress that is manufactured in
19 the form of a metered-dose inhaler or dry-powder inhaler and that
20 may include a spacer or holding chamber that attaches to the inhaler
21 to improve the delivery of the bronchodilator.

22 J. The permission for self-administration of asthma,
23 anaphylaxis, or replacement pancreatic enzyme medication is
24 effective for the school year for which it is granted and shall be

1 renewed each subsequent school year upon fulfillment of the
2 requirements of this section.

3 K. A student who is permitted to self-administer asthma,
4 anaphylaxis, or replacement pancreatic enzyme medication pursuant to
5 this section shall be permitted to possess and use a prescribed
6 inhaler, anaphylaxis medication including but not limited to an
7 Epinephrine injector, or replacement pancreatic enzyme medication at
8 all times.

9 SECTION 3. This act shall become effective July 1, 2024.

10 SECTION 4. It being immediately necessary for the preservation
11 of the public peace, health or safety, an emergency is hereby
12 declared to exist, by reason whereof this act shall take effect and
13 be in full force from and after its passage and approval.

14 COMMITTEE REPORT BY: COMMITTEE ON HEALTH AND HUMAN SERVICES
15 March 28, 2024 - DO PASS

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