

Stricken language would be deleted from and underlined language would be added to present law.
Act 851 of the Regular Session

State of Arkansas
92nd General Assembly
Regular Session, 2019

As Engrossed: H3/25/19
A Bill

HOUSE BILL 1745

By: Representatives L. Johnson, J. Mayberry

By: Senators Irvin, E. Cheatham

For An Act To Be Entitled

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

Subtitle

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

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

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

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

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



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

(i) The school district or public charter school;

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

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

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

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

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

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

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

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

professionally believes is in perceived respiratory distress.

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

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

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

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

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

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

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

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

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

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

~~(1) By a:~~

~~(A) School nurse; or~~

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

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

~~anaphylactic reaction.~~

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

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

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

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

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

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

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

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

/s/L. Johnson

APPROVED: 4/10/19