

HOUSE BILL 773

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By: **Delegates Boyce, Acevero, Arikan, Bagnall, D. Barnes, Bridges, Carr, Conaway, Cullison, Ebersole, Fraser-Hidalgo, Hettleman, Hill, Lehman, R. Lewis, Lierman, McIntosh, Moon, Shetty, Smith, Solomon, Stewart, Terrasa, C. Watson, Wells, K. Young, and P. Young**

Introduced and read first time: January 31, 2020

Assigned to: Ways and Means

A BILL ENTITLED

1 AN ACT concerning

2 **Public and Nonpublic Schools – Bronchodilator Availability and Use – Policy**
3 **(Bronchodilator Rescue Inhaler Law)**

4 FOR the purpose of requiring each county board of education and authorizing nonpublic
5 schools in the State to establish a policy to authorize certain school personnel to
6 administer bronchodilators to certain students under certain circumstances;
7 prohibiting a school nurse or other school personnel from administering a
8 bronchodilator to a prekindergarten student except under certain circumstances;
9 requiring a certain policy to include certain information; providing that certain
10 nurses and certain school personnel may not be held personally liable for certain acts
11 or omissions except under certain circumstances; requiring each public school to
12 notify a certain student’s parent or legal guardian, make a certain record, and file a
13 certain form under certain circumstances; requiring each public school to submit a
14 certain report to the State Department of Education using a certain form and on a
15 schedule required by the Department; requiring the Department to develop and
16 disseminate certain forms; defining certain terms; and generally relating to a
17 bronchodilator availability and use policy in public and nonpublic schools in the
18 State.

19 BY repealing and reenacting, with amendments,
20 Article – Education
21 Section 7–426.2 and 7–426.3
22 Annotated Code of Maryland
23 (2018 Replacement Volume and 2019 Supplement)

24 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,
25 That the Laws of Maryland read as follows:

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1

Article – Education

2 7–426.2.

3 (a) (1) In this section the following words have the meanings indicated.

4 (2) “Anaphylaxis” means a sudden, severe, and potentially life–threatening
5 allergic reaction that occurs when an individual is exposed to an allergen.6 **(3) “ASTHMA” MEANS A CHRONIC LUNG DISEASE THAT INFLAMES**
7 **AND NARROWS AIR PASSAGES, CAUSING RECURRING PERIODS OF WHEEZING, CHEST**
8 **TIGHTNESS, SHORTNESS OF BREATH, AND COUGHING.**9 **[(3)] (4)** “Auto–injectable epinephrine” means a portable, disposable drug
10 delivery device that contains a premeasured single dose of epinephrine that is used to treat
11 anaphylaxis in an emergency situation.12 **(5) “BRONCHODILATOR” MEANS MEDICATION THAT RELAXES**
13 **BRONCHIAL MUSCLES, RESULTING IN THE EXPANSION OF BRONCHIAL AIR**
14 **PASSAGES TO PROVIDE FAST TREATMENT OF ASTHMA–RELATED SYMPTOMS AND**
15 **SYMPTOMS OF RESPIRATORY DISTRESS.**16 (b) (1) Each county board shall establish a policy for public schools within its
17 jurisdiction to authorize the school nurse and other school personnel to administer
18 [auto–injectable]:19 **(I) AUTO–INJECTABLE** epinephrine, if available, to a student who
20 is determined to be or perceived to be in anaphylaxis, regardless of whether the student:21 **[(1)] 1.** Has been identified as having an anaphylactic allergy, as defined
22 in § 7–426.1 of this subtitle; or23 **[(2)] 2.** Has a prescription for epinephrine as prescribed by an
24 authorized licensed health care practitioner under the Health Occupations Article; AND25 **(II) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS**
26 **SUBSECTION, A BRONCHODILATOR, IF AVAILABLE, TO A STUDENT WHO IS**
27 **DETERMINED TO HAVE ASTHMA, IS EXPERIENCING ASTHMA–RELATED SYMPTOMS,**
28 **OR IS PERCEIVED TO BE IN RESPIRATORY DISTRESS, REGARDLESS OF WHETHER THE**
29 **STUDENT:**30 **1. HAS BEEN DIAGNOSED WITH ASTHMA OR REACTIVE**
31 **AIRWAY DISEASE; OR**32 **2. HAS A PRESCRIPTION FOR A BRONCHODILATOR AS**

1 **PRESCRIBED BY AN AUTHORIZED LICENSED HEALTH CARE PRACTITIONER UNDER**
2 **THE HEALTH OCCUPATIONS ARTICLE.**

3 **(2) A SCHOOL NURSE OR OTHER SCHOOL PERSONNEL MAY NOT**
4 **ADMINISTER A BRONCHODILATOR TO A PREKINDERGARTEN STUDENT UNLESS THE**
5 **STUDENT HAS BEEN DIAGNOSED WITH ASTHMA OR A REACTIVE AIRWAY DISEASE**
6 **AND HAS A PRESCRIPTION FOR A BRONCHODILATOR AS PRESCRIBED BY THE**
7 **STUDENT'S HEALTH CARE PRACTITIONER.**

8 (c) The policy established under subsection (b) of this section shall include:

9 (1) Training for school personnel on how to recognize the symptoms of
10 anaphylaxis, **ASTHMA, AND RESPIRATORY DISTRESS;**

11 (2) Procedures for the emergency administration of auto-injectable
12 epinephrine **AND A BRONCHODILATOR;**

13 (3) The proper follow-up emergency procedures;

14 (4) A provision authorizing a school nurse to obtain and store at a public
15 school [auto-injectable] **FOR USE IN AN EMERGENCY SITUATION:**

16 **(I) AUTO-INJECTABLE** epinephrine [to be used in an emergency
17 situation]; **AND**

18 **(II) BRONCHODILATORS AND MODES OF DELIVERY, INCLUDING**
19 **INHALERS WITH SPACERS;** and

20 (5) A requirement that each public school develop and implement a method
21 for notifying the parents or guardians of students of the school's policy under this section
22 at the beginning of each school year.

23 (d) Except for any willful or grossly negligent act, a school nurse or other school
24 personnel who respond in good faith to the anaphylactic reaction, **ASTHMA ATTACK, OR**
25 **RESPIRATORY DISTRESS** of a child in accordance with this section may not be held
26 personally liable for any act or omission in the course of responding to the reaction.

27 (e) (1) **(I) [Each public school shall submit, on the form that the**
28 **Department requires, a report to the Department on] FOR** each incident at the school or at
29 a related school event that required the use of auto-injectable epinephrine **OR A**
30 **BRONCHODILATOR, EACH PUBLIC SCHOOL SHALL:**

31 **1. NOTIFY THE STUDENT'S PARENT OR LEGAL**
32 **GUARDIAN OF THE INCIDENT; AND**

1 **2. MAKE A RECORD OF THE INCIDENT, ON THE FORM**
2 **THAT THE DEPARTMENT REQUIRES, AND FILE THE FORM IN THE STUDENT'S SCHOOL**
3 **MEDICAL RECORD.**

4 **(II) EACH PUBLIC SCHOOL SHALL SUBMIT TO THE**
5 **DEPARTMENT A REPORT, ON THE FORM AND SCHEDULE REQUIRED BY THE**
6 **DEPARTMENT, ON THE NUMBER OF INCIDENTS AT THE SCHOOL OR AT A RELATED**
7 **SCHOOL EVENT THAT REQUIRED THE USE OF AUTO-INJECTABLE EPINEPHRINE OR**
8 **A BRONCHODILATOR.**

9 (2) The Department shall develop and disseminate [a] standard [form]
10 **FORMS to [report] RECORD each incident AND REPORT INCIDENTS** requiring the use of
11 auto-injectable epinephrine **OR A BRONCHODILATOR** at a public school.

12 7-426.3.

13 (a) (1) In this section the following words have the meanings indicated.

14 (2) "Anaphylaxis" means a sudden, severe, and potentially life-threatening
15 allergic reaction that occurs when an individual is exposed to an allergen.

16 **(3) "ASTHMA" MEANS A CHRONIC LUNG DISEASE THAT INFLAMES**
17 **AND NARROWS AIR PASSAGES, CAUSING RECURRING PERIODS OF WHEEZING, CHEST**
18 **TIGHTNESS, SHORTNESS OF BREATH, AND COUGHING.**

19 **[(3)] (4)** "Auto-injectable epinephrine" means a portable, disposable drug
20 delivery device that contains a premeasured single dose of epinephrine that is used to treat
21 anaphylaxis in an emergency situation.

22 **(5) "BRONCHODILATOR" MEANS MEDICATION THAT RELAXES**
23 **BRONCHIAL MUSCLES, RESULTING IN THE EXPANSION OF BRONCHIAL AIR**
24 **PASSAGES TO PROVIDE FAST TREATMENT OF ASTHMA-RELATED SYMPTOMS AND**
25 **SYMPTOMS OF RESPIRATORY DISTRESS.**

26 **[(4)] (6)** "School personnel" means individuals who are employed by a
27 nonpublic school, including part-time employees, teachers and substitute teachers
28 employed by the school for at least 7 days each school year, a school nurse, registered nurse
29 case manager, delegating nurse, and administrative staff.

30 (b) **(1)** Each nonpublic school in the State may establish a policy authorizing
31 school personnel to administer [auto-injectable]:

32 **(I) AUTO-INJECTABLE** epinephrine, if available, to a student who
33 is determined to be or perceived to be in anaphylaxis, regardless of whether the student:

1 **[(1)] 1.** Has been identified as having an anaphylactic allergy, as defined
2 in § 7–426.1 of this subtitle; or

3 **[(2)] 2.** Has a prescription for epinephrine as prescribed by an
4 authorized licensed health care practitioner under the Health Occupations Article; AND

5 **(II) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS**
6 **SUBSECTION, A BRONCHODILATOR, IF AVAILABLE, TO A STUDENT WHO IS**
7 **DETERMINED TO HAVE ASTHMA, IS EXPERIENCING ASTHMA–RELATED SYMPTOMS,**
8 **OR IS PERCEIVED TO BE IN RESPIRATORY DISTRESS, REGARDLESS OF WHETHER THE**
9 **STUDENT:**

10 **1. HAS BEEN DIAGNOSED WITH ASTHMA OR REACTIVE**
11 **AIRWAY DISEASE; OR**

12 **2. HAS A PRESCRIPTION FOR A BRONCHODILATOR AS**
13 **PRESCRIBED BY AN AUTHORIZED LICENSED HEALTH CARE PRACTITIONER UNDER**
14 **THE HEALTH OCCUPATIONS ARTICLE.**

15 **(2) SCHOOL PERSONNEL MAY NOT ADMINISTER A BRONCHODILATOR**
16 **TO A PREKINDERGARTEN STUDENT UNLESS THE STUDENT HAS BEEN DIAGNOSED**
17 **WITH ASTHMA OR A REACTIVE AIRWAY DISEASE AND HAS A PRESCRIPTION FOR A**
18 **BRONCHODILATOR AS PRESCRIBED BY THE STUDENT’S HEALTH CARE**
19 **PRACTITIONER.**

20 (c) The policy established under subsection (b) of this section shall include:

21 (1) Training for school personnel on how to recognize the signs and
22 symptoms of [anaphylaxis]:

23 **(I) ANAPHYLAXIS** by a licensed health care practitioner who is
24 authorized to administer auto–injectable epinephrine and who has been trained in an
25 established protocol on how to recognize the signs and symptoms of anaphylaxis; AND

26 **(II) ASTHMA, ASTHMA–RELATED SYMPTOMS, OR RESPIRATORY**
27 **DISTRESS BY A LICENSED HEALTH CARE PRACTITIONER WHO IS AUTHORIZED TO**
28 **ADMINISTER A BRONCHODILATOR AND WHO HAS BEEN TRAINED IN AN ESTABLISHED**
29 **PROTOCOL ON HOW TO RECOGNIZE THE SIGNS AND SYMPTOMS OF ASTHMA AND**
30 **RESPIRATORY DISTRESS;**

31 (2) Procedures for the emergency administration of auto–injectable
32 epinephrine AND A BRONCHODILATOR;

33 (3) The proper follow–up emergency procedures;

1 (4) A provision authorizing a school nurse or other licensed health care
2 practitioner to obtain and, school personnel to store, at a nonpublic school [auto-injectable
3 epinephrine to be used] **FOR USE** in an emergency situation:

4 (I) **AUTO-INJECTABLE EPINEPHRINE; AND**

5 (II) **BRONCHODILATORS AND MODES OF DELIVERY, INCLUDING**
6 **INHALERS WITH SPACERS;**

7 (5) A requirement that the nonpublic school develop and implement a
8 method for notifying the parents or guardians of students of the school's policy under this
9 section at the beginning of each school year; and

10 (6) An ongoing process for oversight and monitoring by a licensed health
11 care practitioner of the implementation of the policy established under subsection (b) of this
12 section.

13 (d) Except for any willful or grossly negligent act, school personnel who respond
14 in good faith to the anaphylactic reaction, **ASTHMA ATTACK, OR RESPIRATORY DISTRESS**
15 of a child in accordance with this section may not be held personally liable for any act or
16 omission in the course of responding to the reaction.

17 **SECTION 2. AND BE IT FURTHER ENACTED,** That this Act shall take effect July
18 1, 2020.