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## HB 384: Public and Nonpublic Schools – Bronchodilator and Epinephrine Availability and Use – Policies

### UNFAVORABLE

HB 384 directs county boards of education to establish training programs for certain school nurses and other personnel, in order to administer bronchodilators to students who are perceived to be suffering symptoms of asthma or other respiratory distress, or to administer auto-injectable epinephrine to students who are perceived to be suffering symptoms of anaphylaxis.

While MAJ supports the concept of keeping schoolchildren safe, MAJ has significant concerns about the manner in which HB 384 would authorize “school personnel” – including personnel with no nursing or other health-care training – to administer *potentially dangerous and/or expired pharmaceuticals* to sick children, thereby needlessly delaying calls to 9-1-1 or other life-saving emergency assistance.

A nationwide lobbying strategy implemented by pharmaceutical giants has greatly expanded the market for auto-injectable epinephrine, and increased market share, which in turn allowed the manufacturer of “Epi-pens,” Mylan Pharmaceuticals, to increase prices astronomically, resulting in multi-billion dollar corporate profits.<sup>1</sup> In response, the General Assembly has restricted immunity for administering auto-injectable epinephrine to individuals suspected of suffering anaphylaxis, to ensure *both* that proper standards and procedures for storage and administration are followed (epinephrine must never be refrigerated) *and* that the medication is not administered beyond the expiration date (epinephrine can expire in as little as one year). *See* Md. Health-Gen. § 13-7A-07 (2018).

Not only does HB 384 include *none* of these vitally important safeguards – thereby exposing Maryland schoolchildren to potentially unsafe or expired medicines – HB 384 encourages schools [at page 5, lines 18-27] to collect donations of unused medicine for use in schoolchildren *without regard* to whether the medications were properly stored or retain their potency. Of course, needlessly administering expired or spoiled medications to a child will delay the administration of necessary, safe, and effective healthcare.

Even worse, HB 384 grants immunity [at page 4 lines 1-4] to school personnel who administer expired or spoiled medications. School boards of education already enjoy substantial limitations on their liability to students under Maryland law. Boards of education must not be permitted to escape liability *altogether* if their improper handling or storage of medications, or improper training of school personnel, caused a sick child to suffer the consequences of a delay in obtaining the proper care. Similarly, non-public schools should not enjoy immunity from liability when their unsafe medication storage or handling practices, or their unsafe training programs, cause harm to students.

Finally, HB 384 fails to define the term “school personnel” for the purposes of administering medication to children in public schools [page 2 line 8 through page 4 line 9], thereby exposing school children to the danger that untrained school personnel would choose to act incorrectly, thereby delaying a call for trained emergency assistance.

Indeed, the definition of “school personnel” applicable to nonpublic schools [page 4 lines 17-20] makes it clear that “school personnel” includes everybody. MAJ respectfully submits that, when everybody has immunity from liability, nobody is safe from harm.

**The Maryland Association for Justice respectfully urges an UNFAVORABLE Report on HB 384.**

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<sup>1</sup> C. Koons, “How Marketing Turned the EpiPen into a Billion-Dollar Business,” Bloomberg Business (Sept. 23, 2015), <http://www.bloomberg.com/news/articles/2015-09-23/how-marketing-turned-the-epipen-into-a-billion-dollar-business>. This article describes Mylan’s strategy for increasing demand and market share for EpiPens through “public entity legislation.” A chart from that article is attached.