

Department of Legislative Services
Maryland General Assembly
2024 Session

FISCAL AND POLICY NOTE
Third Reader - Revised

Senate Bill 180

(Senator Hester)

Education, Energy, and the Environment

Ways and Means

**Public and Nonpublic Schools - Auto-Injectable Epinephrine and
Bronchodilators - Use, Availability, Training, and Policies**

This bill requires the Maryland Department of Health (MDH), in consultation with local boards of education, to establish a policy for public schools to authorize the school nurse and designated school personnel to administer a bronchodilator to a student who is determined by an individual with specified training to be or perceived to be experiencing asthma-related symptoms or is perceived to be in respiratory distress. A bronchodilator may be administered to such a student regardless of whether the student has been diagnosed with asthma or reactive airway disease or has been prescribed a bronchodilator by a licensed health care practitioner. However, a bronchodilator may not be administered to a prekindergarten student without a prescription, as specified. The policy must include other specified elements. Likewise, the bill *authorizes* each nonpublic school to establish a policy that meets similar requirements. The bill also makes parallel changes to existing requirements for each local board of education's epinephrine use policy. **The bill takes effect July 1, 2024.**

Fiscal Summary

State Effect: MDH general fund expenditures increase by \$32,200 in FY 2025 for contractual support needed to develop a policy. The Maryland State Department of Education (MSDE) and MDH can jointly identify or develop required trainings, and MSDE can develop required forms and receive required incident reports using existing budgeted resources. Revenues are not affected.

(in dollars)	FY 2025	FY 2026	FY 2027	FY 2028	FY 2029
Revenues	\$0	\$0	\$0	\$0	\$0
GF Expenditure	32,200	0	0	0	0
Net Effect	(\$32,200)	\$0	\$0	\$0	\$0

Note: () = decrease; GF = general funds; FF = federal funds; SF = special funds; - = indeterminate increase; (-) = indeterminate decrease

Local Effect: Local school system expenditures increase minimally to implement required training. Local school systems can coordinate with MDH on the development of bronchodilator policies with existing resources. Assuming school nurses decide to make bronchodilators and modes of administration available, annual school system and/or local health department (LHD) expenditures increase. To the extent a school system applies for and receives grants as authorized under the bill, revenues increase.

Small Business Effect: None. To the extent that nonpublic schools are small businesses, the bill authorizes, but does not require, the specified policy and related training and procedures.

Analysis

Bill Summary:

Anaphylaxis Identification Training

MSDE, in consultation with MDH, the American Lung Association, and the Asthma and Allergy Foundation of America, must identify or develop training to identify the symptoms of asthma and respiratory distress, identify the symptoms of anaphylaxis, and distinguish between anaphylaxis and asthma or respiratory distress. The training must be provided to school nurses and voluntary school personnel who are designated by a school nurse and, in the clinical judgment of the school nurse, are appropriate recipients of the training. This training must be a paid professional development training.

Bronchodilator Policy and Availability

“School personnel” means individuals employed by a school (public or nonpublic, as relevant), including part-time employees, teachers, and substitute teachers employed by the school at least seven days of each school year, registered nurse case managers, delegating nurses, and administrative staff.

The policy must include (1) a paid professional development training for school nurses and other voluntary school personnel designated by a school nurse on the identification and differentiation of anaphylaxis and asthma and respiratory distress; (2) procedures for the emergency administration of a bronchodilator by a school nurse or designated school personnel; (3) procedures for recognizing and administering a bronchodilator based on the severity of the symptoms being experienced by the student; (4) proper follow-up emergency procedures; (5) a provision authorizing a school nurse to obtain and store at a public school bronchodilators and modes of administration to be used in an emergency situation; and (6) a requirement that each public school develop and implement a method

for notifying the parents or guardians of students of the school's policy at the beginning of each school year. These elements are also required, as appropriate, for any policy voluntarily developed by nonpublic schools; however, nonpublic schools must also establish an ongoing process for oversight and monitoring by a licensed health care practitioner.

An authorized licensed health care practitioner may provide bronchodilators to a school nurse or designated school personnel for use in accordance with the bill. Bronchodilators and modes of administration used by a school nurse or designated school personnel must be from a licensed pharmacy or manufacturer. A local board of education or public school (as well as a nonpublic school) may accept donated bronchodilators and modes of administration from a licensed pharmacy or manufacturer, and a local board (as well as a nonpublic school) may apply for grants to obtain funding for the purchase of bronchodilators and modes of administration.

MSDE must develop and disseminate standard forms to record and report each incident requiring the use of a bronchodilator at a public school. A public school must notify the student's parent or legal guardian of an incident requiring the use of a stock bronchodilator in accordance with the bill and make a record of the incident on this form and file the form in the student's school medical record. Each public school must submit a report to MSDE on the number of incidents at the school or at a related school event that requires the use of a stock bronchodilator in accordance with the bill.

Except for any willful or grossly negligent act, a school nurse or any other school personnel who responds in good faith to the asthma attack or respiratory distress in accordance with the bill may not be held personally liable for any act or omission in the course of responding to the child in distress.

Epinephrine Policy and Availability

The training identified or developed by MSDE on the identification and differentiation of anaphylaxis and asthma and respiratory distress must be part of each local board of education's epinephrine use policy as well as each nonpublic school's policy (if the nonpublic school has opted to establish such a policy). Each epinephrine policy must also include procedures for the emergency administration of auto-injectable epinephrine *by a school nurse or designated school personnel* if the student is determined *by an individual who has undergone training, if available*, to be perceived to be in anaphylaxis.

An authorized licensed health care practitioner may provide auto-injectable epinephrine to a school nurse or designated school personnel for use as specified. Auto-injectable epinephrine must be from a licensed pharmacy or manufacturer. A local board of education or public school (as well as a nonpublic school) may accept donated auto-injectable

epinephrine from a licensed pharmacy or manufacturer, and a local board (as well as a nonpublic school) may apply for grants to obtain funding for the purchase of epinephrine from a licensed pharmacy or manufacturer.

Current Law: With the assistance of LHD, each local board of education must provide adequate school health services, instruction in health education, and a healthful school environment. MSDE and MDH must jointly develop public standards and guidelines for school health programs and offer assistance to the local boards of education and LHDs in their implementation.

MSDE and MDH must jointly establish guidelines for public schools regarding emergency care for students with special health needs. The guidelines must include procedures for the emergency administration of medication and the proper follow-up emergency procedures, a description of parental or caregiver responsibilities, a description of school responsibilities, a description of student responsibilities that are age and condition appropriate, and any other issue that is relevant to the emergency medical care of students with special health needs. MSDE and MDH must provide technical assistance to schools to implement the guidelines established, train designated school personnel at the local level, and develop a process to monitor the implementation of the guidelines. MSDE's Maryland State School Health Services updated guidelines for [management of students with asthma](#) provides local school systems and LHDs with information regarding the management of asthma and care coordination, including the responsibilities of school staff, administrators, parents and guardians, and students.

Auto-injectable Epinephrine

“Anaphylaxis” means a sudden, severe, and potentially life-threatening allergic reaction that occurs when an individual is exposed to an allergen. “Auto-injectable epinephrine” means a portable, disposable drug delivery device that contains a premeasured single dose of epinephrine that is used to treat anaphylaxis in an emergency situation.

Each local board of education must establish a policy to authorize the school nurse and other school personnel to administer auto-injectable epinephrine, if available, to a student who is determined to be or perceived to be in anaphylaxis, regardless of whether the student (1) has been identified as having an anaphylactic allergy or (2) has a prescription for epinephrine from a licensed health care practitioner. The policy must also include training for school personnel on how to recognize the symptoms of anaphylaxis; procedures for the emergency administration of auto-injectable epinephrine; proper follow-up emergency procedures; and a provision authorizing a school nurse to obtain and store at a public school auto-injectable epinephrine to be used in an emergency situation. These elements are also required, as appropriate, for any policy voluntarily developed by nonpublic schools;

however, nonpublic schools must also establish an ongoing process for oversight and monitoring by a licensed health care practitioner.

Each public school must submit, on the form that MSDE requires, a report on each incident at the school or at a related school event that required the use of auto-injectable epinephrine. MSDE must develop and disseminate a standard form to report each incident requiring the use of auto-injectable epinephrine at a public school. Maryland’s revised guidelines for [management of anaphylaxis in schools](#) contain recommendations for minimum standards of care and current best practices for students with anaphylactic allergies. The guidelines specify the roles and responsibilities of parents/guardians, students, and staff and include guidelines for outreach to parents/guardians from schools.

State Expenditures: MDH general fund expenditures increase by \$32,208 in fiscal 2025, which accounts for a 90-day start-up delay from the bill’s July 1, 2024 effective date.

MDH has determined that one temporary contractual and one regular ongoing part-time position are needed to implement the bill. However, the Department of Legislative Services advises that the added responsibilities incurred by this legislation are not permanent and, thus, may be performed by a contractual employee. This estimate reflects the cost of hiring one part-time (50%) nurse consultant in fiscal 2025 only to support MDH in working with local boards of education to establish a bronchodilator policy as specified. Once the policy is established, this analysis assumes that MDH can follow up with local boards of education as needed using existing resources. It includes a salary, fringe benefits, one-time start-up costs, and other operating expenses.

Contractual Position	0.5
Salary and Fringe Benefits	\$25,356
Operating Expenses	<u>6,852</u>
Total FY 2025 State Expenditures	\$32,208

Future year expenditures reflect termination of the position in fiscal 2026 with the completion of the bronchodilator policy.

This estimate does not include any health insurance costs that could be incurred for specified contractual employees under the State’s implementation of the federal Patient Protection and Affordable Care Act.

Local Expenditures: LHDs provide school nurses in approximately 14 jurisdictions. Thus, LHD expenditures in those jurisdictions increase by a minimal amount for school nurses to attend specified paid professional development trainings. Local school system expenditures likewise increase for school nurses employed by local school systems and school staff designated by the school nurse to attend the specified paid professional

development trainings. Estimates provided by local school systems ranged from \$22 to \$55 per hour of staff training. Costs will be less to the extent paid professional development training is already provided and can be replaced by the specified training identified/developed by MSDE. Additionally, in Washington County, a local hospital provides school nursing staff for public schools in the county. For Washington County, the local hospital may bear these training expenses.

Assuming school nurses decide to make bronchodilators and spacers available, annual local school system and/or LHD expenditures increase. Should they do so, it is unknown what price local school systems will pay for stock bronchodilators and modes of administration, including spacers. According to Cost Helper, the cost to the general public for an albuterol rescue inhaler, which is one type of bronchodilator, is \$30 to \$60 (\$5 to \$50 with insurance). Other bronchodilators and administration systems, such as nebulizers, may cost more or less than that estimate. Nurses in local schools will need to decide what bronchodilators and administration systems are most appropriate to stock. Baltimore County Public Schools estimates a cost of \$40,000 to stock bronchodilators and spacers. Prince George's County Public Schools estimates a cost of \$30,900 to stock bronchodilators and spacers for its 206 schools. St. Mary's County Public Schools advises the bill will necessitate significant upfront costs to obtain new bronchodilator and spacer supplies with ongoing yearly costs of at least \$8,500 to replace expired or used stock. St. Mary's County Public Schools also indicates that the price for bronchodilators and spacers has increased by roughly 10% per year over the past two years. Montgomery County Public Schools estimates an annual cost of \$31,650 to supply four bronchodilators and sufficient spacers for its 211 schools.

Total costs are higher if school nurses determine that a greater stock supply of bronchodilators is necessary (which expire and must be replaced regularly). There may also be costs associated with the safe disposal of used and expired bronchodilators. To the extent local school systems currently have stock bronchodilators, licensed pharmacies or manufacturers donate supplies of bronchodilators, or local school systems secure grants for the purchase of bronchodilators and modes of administration, costs are mitigated.

Current law already requires that each local board's auto-injectable epinephrine policy include a provision authorizing a school nurse or licensed health care practitioner to obtain auto-injectable epinephrine to be used in an emergency situation. Therefore, to the extent licensed pharmacies or manufacturers donate supplies of auto-injectable epinephrine or local school systems secure grants for the purchase of auto-injectable epinephrine as a result of the bill, local expenditures for auto-injectable epinephrine are also mitigated.

Small Business Effect: MSDE advises that some nonpublic schools may not have a school nurse on site. Such schools that wish to implement a policy under the bill will need to

coordinate with an off-site nurse consultant. However, because the bill *authorizes*, but does not require, nonpublic policy adoption, there is no direct effect on nonpublic schools.

Additional Information

Recent Prior Introductions: Similar legislation has been introduced within the last three years. See HB 266 of 2023, HB 384 of 2022, and HB 609 of 2021.

Designated Cross File: HB 86 (Delegate Boyce, *et al.*) - Ways and Means..

Information Source(s): Maryland State Department of Education; Maryland Department of Health; Maryland Association of County Health Officers; Anne Arundel County Public Schools; Baltimore County Public Schools; Montgomery County Public Schools; Prince George's County Public Schools; St. Mary's County Public Schools; Department of Legislative Services

Fiscal Note History: First Reader - January 16, 2024
js/jc Third Reader - March 19, 2024
Revised - Amendment(s) - March 19, 2024
Revised - Updated Information - March 19, 2024

Analysis by: Michael E. Sousane

Direct Inquiries to:
(410) 946-5510
(301) 970-5510