

CHAPTER 652

(House Bill 26)

AN ACT concerning

Public Schools – Children with Anaphylactic Allergies – Reduction of Risk

FOR the purpose of requiring, *in consultation with a school health professional*, principals of public schools that have children attending the schools who have been identified as having certain allergies to take certain actions to reduce certain risks; ~~requiring school principals or their designees to monitor certain files; requiring the monitoring of certain individualized health plans;~~ authorizing public schools to revoke the authority of certain children to self-administer certain medications; granting certain immunity to certain individuals under certain circumstances; authorizing local county boards of education to require parents or guardians to sign certain statements; defining certain terms; and generally relating to the reduction of risk to the health of children with anaphylactic allergies in public schools.

BY adding to

Article – Education

Section 7–426.1

Annotated Code of Maryland

(2008 Replacement Volume)

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

Article – Education

7–426.1.

(A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

(2) “ANAPHYLACTIC ALLERGY” MEANS A FOOD ALLERGY THAT CAUSES A SEVERE, SYSTEMATIC REACTION RESULTING IN CIRCULATORY COLLAPSE OR SHOCK THAT MAY BE FATAL.

(3) “EMPLOYEE” MEANS AN INDIVIDUAL WHO IS EMPLOYED BY A LOCAL BOARD OF EDUCATION, INCLUDING PART-TIME EMPLOYEES, CERTIFIED AND NONCERTIFIED SUBSTITUTE TEACHERS EMPLOYED BY THE LOCAL BOARD

OF EDUCATION FOR AT LEAST 7 DAYS EACH SCHOOL YEAR, MAINTENANCE WORKERS, AND ADMINISTRATIVE STAFF.

(4) "SELF-ADMINISTER" MEANS THE APPLICATION OR CONSUMPTION OF MEDICATIONS IN A MANNER PRESCRIBED BY A HEALTH PRACTITIONER WHO IS LICENSED, CERTIFIED, OR OTHERWISE AUTHORIZED UNDER THE HEALTH OCCUPATIONS ARTICLE TO PRESCRIBE MEDICATIONS AND MEDICATION DELIVERY DEVICES BY THE INDIVIDUAL FOR WHOM THE MEDICATION WAS PRESCRIBED WITHOUT ADDITIONAL ASSISTANCE OR DIRECTION.

(B) ~~THE~~ IN CONSULTATION WITH A SCHOOL HEALTH PROFESSIONAL, ~~THE~~ PRINCIPAL OF A PUBLIC SCHOOL THAT HAS A CHILD ATTENDING THE SCHOOL WHO HAS BEEN IDENTIFIED TO THE SCHOOL AS HAVING AN ANAPHYLACTIC ALLERGY SHALL:

(1) MONITOR THE STRATEGIES DEVELOPED IN ACCORDANCE WITH THE MARYLAND STATE SCHOOL HEALTH SERVICE GUIDELINES TO REDUCE THE RISK OF EXPOSURE TO ANAPHYLACTIC CAUSATIVE AGENTS IN CLASSROOMS AND COMMON AREAS;

~~(2) DISSEMINATE INFORMATION ON LIFE-THREATENING ALLERGIES TO PARENTS, GUARDIANS, PUPILS, AND EMPLOYEES OF THE SCHOOL, INCLUDING NOTICE IN A CONSPICUOUS PLACE AT EACH POINT OF ENTRY AND IN THE CAFETERIA STATING THAT A STUDENT IN THE SCHOOL HAS A SEVERE FOOD ALLERGY;~~

~~(3)~~ (2) DESIGNATE A PEANUT- AND TREE NUT-FREE TABLE IN THE CAFETERIA; AND

~~(4) IN CONSULTATION WITH APPROPRIATE PROFESSIONAL MEDICAL ORGANIZATIONS, REQUIRE TRAINING REGARDING LIFE-THREATENING ALLERGIES FOR EMPLOYEES AND OTHER INDIVIDUALS WHO ARE IN DIRECT CONTACT WITH THESE STUDENTS ON A REGULAR BASIS.~~

(C) (1) ~~A SCHOOL PRINCIPAL OR THE PRINCIPAL'S DESIGNEE SHALL MONITOR FOR EACH CHILD WITH AN ANAPHYLACTIC ALLERGY A ROUTINELY UPDATED FILE THAT CONTAINS:~~

~~(I) CURRENT TREATMENT GUIDELINES;~~

~~(II) COPIES OF ANY PRESCRIPTIONS AND INSTRUCTIONS FROM A PHYSICIAN OR NURSE; AND~~

~~(III) A CURRENT EMERGENCY CONTACT LIST.~~

~~(2) IT IS THE RESPONSIBILITY OF THE PARENT OR GUARDIAN OF THE CHILD TO ENSURE THAT THE INFORMATION IN THE FILE IS CURRENT.~~

~~(D) (1) A SCHOOL PRINCIPAL OR THE PRINCIPAL'S DESIGNEE, IN CONSULTATION WITH THE PARENT OR GUARDIAN OF THE CHILD, THE CHILD'S PHYSICIAN, ANY HEALTH CARE PROFESSIONAL EMPLOYED BY THE SCHOOL, AND, IF APPROPRIATE, THE CHILD, SHALL MONITOR AN INDIVIDUALIZED HEALTH PLAN FOR THE CHILD.~~

~~(2) EMPLOYEES OF THE SCHOOL SHALL HAVE ACCESS TO THE PLAN AT ALL TIMES.~~

~~(E) AN INDIVIDUALIZED HEALTH PLAN SHALL:~~

~~(1) ESTABLISH PROCEDURES FOR NOTIFYING EMPLOYEES WHO ARE IN DIRECT CONTACT WITH THE CHILD ON A REGULAR BASIS ABOUT INFORMATION REGARDING THE TYPE OF ALLERGY, MONITORING AND AVOIDANCE STRATEGIES, AND APPROPRIATE TREATMENT;~~

~~(2) ESTABLISH A READILY ACCESSIBLE EMERGENCY RESPONSE PLAN FOR THE CHILD, INCLUDING:~~

~~(I) EMERGENCY CONTACT INFORMATION, UPDATED AT LEAST ANNUALLY, WITH CURRENT CONTACT NAMES AND PHONE NUMBERS;~~

~~(II) SIGNS AND SYMPTOMS FOR WHICH EMERGENCY CARE MAY BE NEEDED THAT ARE SPECIFIC TO THE CHILD'S HEALTH CONDITION;~~

~~(III) EMERGENCY INTERVENTION NEEDED, INCLUDING MEDICATIONS PRESCRIBED, DOSAGES, AND MODE OF ADMINISTRATION;~~

~~(IV) PROCEDURES FOR THE PLACEMENT OF A CHILD'S PRESCRIBED EMERGENCY MEDICATION IN A SAFE AND SECURE LOCATION EASILY ACCESSED TO ENSURE IMMEDIATE ACCESSIBILITY AT SCHOOL, ON A FIELD TRIP, ON A SCHOOL BUS OR OTHER SCHOOL COORDINATED TRANSPORTATION, OR AT A SCHOOL SPONSORED ACTIVITY OR EVENT; AND~~

~~(V) EACH LOCATION OF THE EMERGENCY MEDICATION;~~

~~(3) INCLUDE PRECISE INSTRUCTIONS REGARDING THE STORAGE OF EPINEPHRINE AUTO-INJECTORS; AND~~

~~(4)~~ **(3)** ~~MEET THE NEEDS OF THE CHILD, INCLUDING ESTABLISHING~~ ESTABLISH PROCEDURES FOR SELF-ADMINISTRATION OF MEDICATION BY THE CHILD IF THE CHILD IS DETERMINED TO BE CAPABLE OF AND RESPONSIBLE FOR SELF-ADMINISTRATION BY THE PRINCIPAL, PARENT OR GUARDIAN OF THE CHILD, AND PHYSICIAN OF THE CHILD.

~~(F)~~ **(C)** A SCHOOL MAY REVOKE THE AUTHORITY OF A CHILD TO SELF-ADMINISTER MEDICATION IF THE CHILD ENDANGERS HIMSELF OR HERSELF OR ANOTHER CHILD THROUGH MISUSE OF THE MEDICATION.

~~(G)~~ **(D)** EXCEPT FOR ANY WILLFUL OR GROSSLY NEGLIGENT ACT, AN EMPLOYEE WHO RESPONDS IN GOOD FAITH TO THE ANAPHYLACTIC REACTION OF A CHILD IN ACCORDANCE WITH THIS SECTION IS IMMUNE FROM CIVIL LIABILITY FOR ANY ACT OR OMISSION IN THE COURSE OF RESPONDING TO THE REACTION.

~~(H)~~ **(E)** IF A CHILD HAS AUTHORITY TO SELF-ADMINISTER MEDICATION IN ACCORDANCE WITH SUBSECTION (E) OF THIS SECTION, A LOCAL COUNTY BOARD MAY REQUIRE THE PARENT OR GUARDIAN OF THE CHILD TO SIGN A STATEMENT ACKNOWLEDGING THAT:

(1) ~~THE~~ THE SCHOOL OR ITS EMPLOYEE INCURS NO LIABILITY AS A RESULT OF INJURY ARISING FROM SELF-ADMINISTRATION BY THE CHILD; ~~AND.~~

(2) ~~THE PARENT OR GUARDIAN SHALL INDEMNIFY AND HOLD HARMLESS AN EMPLOYEE OF THE SCHOOL AGAINST ANY CLAIMS ARISING FROM SELF-ADMINISTRATION BY THE CHILD.~~

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2009.

Approved by the Governor, May 19, 2009.