

HOUSE BILL 609

F1, J1

11r2129

By: **Delegate Boyce**

Introduced and read first time: January 20, 2021

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 certain 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 and the Maryland Department
15 of Health using a certain form and on a schedule required by the State Department
16 of Education and the Maryland Department of Health; requiring the State
17 Department of Education and the Maryland Department of Health jointly to develop
18 and disseminate certain forms; defining certain terms; making a stylistic change;
19 and generally relating to a bronchodilator availability and use policy in public and
20 nonpublic schools in the State.

21 BY repealing and reenacting, with amendments,
22 Article – Education
23 Section 7–426.2 and 7–426.3
24 Annotated Code of Maryland
25 (2018 Replacement Volume and 2020 Supplement)

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

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



Article – Education

7–426.2.

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

(2) “Anaphylaxis” means a sudden, severe, and potentially life–threatening allergic reaction that occurs when an individual is exposed to an allergen.

(3) “ASTHMA” MEANS A CHRONIC LUNG DISEASE THAT INFLAMES AND NARROWS AIR PASSAGES, CAUSING RECURRING PERIODS OF WHEEZING, CHEST TIGHTNESS, SHORTNESS OF BREATH, AND COUGHING.

~~[(3)]~~ (4) “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.

(5) “BRONCHODILATOR” MEANS MEDICATION THAT RELAXES BRONCHIAL MUSCLES, RESULTING IN THE EXPANSION OF BRONCHIAL AIR PASSAGES, TO PROVIDE FAST TREATMENT OF ASTHMA–RELATED SYMPTOMS AND SYMPTOMS OF RESPIRATORY DISTRESS.

(6) “DESIGNATED SCHOOL PERSONNEL” MEANS INDIVIDUALS WHO ARE EMPLOYED BY A PUBLIC SCHOOL, INCLUDING PART–TIME EMPLOYEES, TEACHERS, AND SUBSTITUTE TEACHERS EMPLOYED BY THE SCHOOL FOR AT LEAST 7 DAYS OF EACH SCHOOL YEAR, A SCHOOL NURSE, REGISTERED NURSE CASE MANAGER, DELEGATING NURSE, AND ADMINISTRATIVE STAFF.

(b) (1) Each county board shall establish a policy for public schools within its jurisdiction to authorize the school nurse and other **DESIGNATED** school personnel to administer ~~[auto–injectable]~~:

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

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

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

1 STUDENT:

2 1. HAS BEEN DIAGNOSED WITH ASTHMA OR REACTIVE
3 AIRWAY DISEASE; OR

4 2. HAS A PRESCRIPTION FOR A BRONCHODILATOR AS
5 PRESCRIBED BY AN AUTHORIZED LICENSED HEALTH CARE PRACTITIONER UNDER
6 THE HEALTH OCCUPATIONS ARTICLE.

7 (2) A SCHOOL NURSE OR OTHER DESIGNATED SCHOOL PERSONNEL
8 MAY NOT ADMINISTER A BRONCHODILATOR TO A PREKINDERGARTEN STUDENT
9 UNLESS THE STUDENT HAS BEEN DIAGNOSED WITH ASTHMA OR A REACTIVE AIRWAY
10 DISEASE AND HAS A PRESCRIPTION FOR A BRONCHODILATOR AS PRESCRIBED BY
11 THE STUDENT'S HEALTH CARE PRACTITIONER.

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

13 (1) Training for DESIGNATED school personnel on how to recognize the
14 symptoms of anaphylaxis, ASTHMA, AND RESPIRATORY DISTRESS;

15 (2) Procedures for the emergency administration of auto-injectable
16 epinephrine AND A BRONCHODILATOR;

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

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

20 (I) AUTO-INJECTABLE epinephrine [to be used in an emergency
21 situation]; AND

22 (II) BRONCHODILATORS AND MODES OF DELIVERY, INCLUDING
23 INHALERS WITH SPACERS; and

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

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

32 (e) (1) (I) [Each public school shall submit, on the form that the

1 Department requires, a report to the Department on] **FOR** each incident at the school or at
2 a related school event that required the use of auto-injectable epinephrine **OR A**
3 **BRONCHODILATOR, EACH PUBLIC SCHOOL SHALL:**

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

6 **2. MAKE A RECORD OF THE INCIDENT, ON THE FORM**
7 **THAT THE DEPARTMENT AND THE MARYLAND DEPARTMENT OF HEALTH REQUIRE,**
8 **AND FILE THE FORM IN THE STUDENT'S SCHOOL MEDICAL RECORD.**

9 **(II) EACH PUBLIC SCHOOL SHALL SUBMIT TO THE**
10 **DEPARTMENT AND THE MARYLAND DEPARTMENT OF HEALTH A REPORT, ON THE**
11 **FORM AND SCHEDULE REQUIRED BY THE DEPARTMENT AND THE MARYLAND**
12 **DEPARTMENT OF HEALTH, ON THE NUMBER OF INCIDENTS AT THE SCHOOL OR AT A**
13 **RELATED SCHOOL EVENT THAT REQUIRED THE USE OF AUTO-INJECTABLE**
14 **EPINEPHRINE OR A BRONCHODILATOR.**

15 (2) The Department **AND THE MARYLAND DEPARTMENT OF HEALTH**
16 **JOINTLY** shall develop and disseminate [a] standard [form] **FORMS** to [report] **RECORD**
17 each incident **AND REPORT INCIDENTS** requiring the use of auto-injectable epinephrine
18 **OR A BRONCHODILATOR** at a public school.

19 7-426.3.

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

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

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

26 **[(3)] (4) "Auto-injectable epinephrine" means a portable, disposable drug**
27 **delivery device that contains a premeasured single dose of epinephrine that is used to treat**
28 **anaphylaxis in an emergency situation.**

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

33 **[(4)] (6) ["School] "DESIGNATED SCHOOL personnel" means individuals**
34 **who are employed by a nonpublic school, including part-time employees, teachers and**

1 substitute teachers employed by the school for at least 7 days each school year, a school
2 nurse, registered nurse case manager, delegating nurse, and administrative staff.

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

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

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

9 [(2)] 2. Has a prescription for epinephrine as prescribed by an
10 authorized licensed health care practitioner under the Health Occupations Article; AND

11 (II) **EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS**
12 **SUBSECTION, A BRONCHODILATOR, IF AVAILABLE, TO A STUDENT WHO IS**
13 **DETERMINED TO HAVE ASTHMA, IS EXPERIENCING ASTHMA-RELATED SYMPTOMS,**
14 **OR IS PERCEIVED TO BE IN RESPIRATORY DISTRESS, REGARDLESS OF WHETHER THE**
15 **STUDENT:**

16 1. **HAS BEEN DIAGNOSED WITH ASTHMA OR REACTIVE**
17 **AIRWAY DISEASE; OR**

18 2. **HAS A PRESCRIPTION FOR A BRONCHODILATOR AS**
19 **PRESCRIBED BY AN AUTHORIZED LICENSED HEALTH CARE PRACTITIONER UNDER**
20 **THE HEALTH OCCUPATIONS ARTICLE.**

21 (2) **DESIGNATED SCHOOL PERSONNEL MAY NOT ADMINISTER A**
22 **BRONCHODILATOR TO A PREKINDERGARTEN STUDENT UNLESS THE STUDENT HAS**
23 **BEEN DIAGNOSED WITH ASTHMA OR A REACTIVE AIRWAY DISEASE AND HAS A**
24 **PRESCRIPTION FOR A BRONCHODILATOR AS PRESCRIBED BY THE STUDENT'S**
25 **HEALTH CARE PRACTITIONER.**

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

27 (1) Training for **DESIGNATED** school personnel on how to recognize the
28 signs and symptoms of [anaphylaxis]:

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

32 (II) **ASTHMA, ASTHMA-RELATED SYMPTOMS, OR RESPIRATORY**

1 **DISTRESS BY A LICENSED HEALTH CARE PRACTITIONER WHO IS AUTHORIZED TO**
2 **ADMINISTER A BRONCHODILATOR AND WHO HAS BEEN TRAINED IN AN ESTABLISHED**
3 **PROTOCOL ON HOW TO RECOGNIZE THE SIGNS AND SYMPTOMS OF ASTHMA AND**
4 **RESPIRATORY DISTRESS;**

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

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

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

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

12 (II) **BRONCHODILATORS AND MODES OF DELIVERY, INCLUDING**
13 **INHALERS WITH SPACERS;**

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

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

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

24 **SECTION 2. AND BE IT FURTHER ENACTED,** That this Act shall take effect July
25 1, 2021.