

Department of Legislative Services
 Maryland General Assembly
 2023 Session

FISCAL AND POLICY NOTE
 Third Reader - Revised

House Bill 266
 Ways and Means

(Delegate Boyce, *et al.*)

Education, Energy, and the Environment

Public and Nonpublic Schools - Bronchodilator Availability and Use - Policies

This bill requires the Maryland State Department of Education (MSDE) and the Maryland Department of Health (MDH) to jointly update, by August 1, 2023, the Maryland State School Health Services guidelines for the management of students with asthma. Each local board of education must make a good faith effort to adopt and implement bronchodilator policies that follow the updated guidelines for the management of students with asthma before the 2023-2024 school year. Further, each local board of education must establish a policy before the 2024-2025 school year for public schools to authorize a school nurse or other school personnel designated by the school nurse to administer a bronchodilator to a student who is experiencing asthma, reactive airway disease, or asthma-related symptoms. The policy must limit the administration of a bronchodilator to cases in which a student has been prescribed a bronchodilator by an authorized, licensed health care practitioner. Likewise, the bill *authorizes* each nonpublic school to establish a policy that meets similar requirements before the 2024-2025 school year. **The bill takes effect July 1, 2023.**

Fiscal Summary

State Effect: MSDE and MDH can jointly update guidelines and MSDE can develop forms and receive incident reports, as required, using existing budgeted resources. Revenues are not affected.

Local Effect: Local boards can establish the required policy before the 2024-2025 school year (and make a good faith effort to adopt and implement updated guidelines before the 2023-2024 school year) using existing budgeted resources. If school nurses decide to make bronchodilators and modes of administration available, school system and/or local health department (LHD) expenditures increase, as discussed below. Revenues are not affected.

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

Analysis

Bill Summary:

Bronchodilator Policy and Availability

The policy required to be established before the 2024-2025 school year (or, in the case of nonpublic schools, the policy authorized to be established) must include (1) provisions authorizing a school nurse to obtain and store bronchodilators at a public school for use in an emergency and (2) procedures for the designation of school personnel by a school nurse (in accordance with the Health Occupations Article) to respond to a student experiencing asthma, reactive airway disease, or asthma-related symptoms in an emergency setting.

MSDE must develop and disseminate standard forms to record and report each incident requiring the use of a bronchodilator at a public school in accordance with a local board's policy. 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 bronchodilator in accordance with a local board's policy. No such reporting is required by nonpublic schools.

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.

School Health Service Guidelines

MSDE and MDH must jointly update the Maryland State School Health Services guidelines for the management of students with asthma by August 1, 2023. In updating the guidelines, MDSE and MDH must provide guidance to school nurses and other school personnel on distinguishing between asthma or restrictive airway disease and anaphylaxis.

Current Law: With the assistance of the 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 guidelines for [management of students with asthma](#) provides local school systems and LHDs with information regarding planning and addressing the needs of students with asthma, management and coordination of care of students with asthma, asthma trigger exposure reduction, and the responsibilities of school staff for students with asthma.

State Expenditures: MSDE advises that the agency, in conjunction with MDH, is already in the process of finalizing updated Maryland State School Health Services guidelines for the management of students with asthma. The guidelines are fully drafted and under review for legal sufficiency. Thus, MSDE and MDH can update the guidelines as required under the bill by August 1, 2023, with existing resources.

Local Expenditures: Local boards of education can establish the required policies before the 2024-2025 school year using existing resources. LHDs provide school nurses in approximately 14 jurisdictions and may be operationally impacted by any new policies. Such policies may require additional training or resources for school nurses, but any effect would be the result of policy choices made by local school systems, not the bill. Each local board of education must make a good faith effort to adopt and implement the updated bronchodilator policies before the 2023-2024 school year. However, the August 1, 2023 date for the updated guidelines to be available to them may make the process operationally difficult.

The bill requires that the policy established before the 2024-2025 school year include a provision *authorizing* school nurses to obtain and store bronchodilators. If 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. 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.

For illustrative purposes only, Baltimore City Public Schools estimates a cost of \$40,000 annually to ensure two bronchodilators per school. Baltimore County Public Schools estimates a cost of \$10,000 annually to ensure just one bronchodilator per school. In response to similar prior year legislation, Montgomery County Public Schools estimated a cost of \$35,000 for medications and supplies. Prince George's County Public Schools

estimates a cost of \$64,000 annually to provide inhalers and disposable mouthpieces to each school. St. Mary's County Public Schools advises the bill could necessitate approximately \$16,000 in costs for new supplies, with ongoing costs of \$7,000 for yearly replacement of expired inhalers and disposable spacers.

Total costs would be higher if school nurses determine that a greater stock supply of bronchodilators is necessary (which expire and must be replaced regularly). There could also be costs associated with the safe disposal of used and expired bronchodilators. However, to the extent local school systems currently have stock bronchodilators, any such costs would be mitigated.

Additional Information

Prior Introductions: Similar legislation has been introduced within the past three years. See HB 384 of 2022, HB 609 of 2021, and HB 773 of 2020.

Designated Cross File: None.

Information Source(s): Maryland Association of County Health Officers; Maryland State Department of Education; Maryland Department of Health; Anne Arundel County Public Schools; Baltimore City 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

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