

1 AN ACT relating to student health and safety.

2 ***Be it enacted by the General Assembly of the Commonwealth of Kentucky:***

3 ➔Section 1. KRS 158.832 is amended to read as follows:

4 As used in KRS 158.830 to 158.838:

- 5 (1) "Anaphylaxis" means an allergic reaction resulting from sensitization following
6 prior contact with an antigen which can be a life-threatening emergency.
7 Anaphylaxis may be triggered by, among other agents, foods, drugs, injections,
8 insect stings, and physical activity.
- 9 (2) **"Bronchodilator rescue inhaler" means medication used to relieve asthma**
10 **symptoms or respiratory distress along with devices and device components**
11 **needed to appropriately administer the medication, including but not limited to**
12 **disposable spacers.**
- 13 (3) "Medications" means all medicines individually prescribed by a health care
14 practitioner for the student that pertain to his or her asthma or is used to treat
15 anaphylaxis, including but not limited to injectable~~[EpiPen or other auto-injectible]~~
16 epinephrine **devices or bronchodilator rescue inhalers;**
- 17 ~~(4)~~~~(3)~~ "Health care practitioner" means a physician or other health care provider who
18 has prescriptive authority;
- 19 ~~(5)~~~~(4)~~ "Self-administration" means the student's use of his or her prescribed asthma
20 or anaphylaxis medications, pursuant to prescription or written direction from the
21 health care practitioner; and
- 22 ~~(6)~~~~(5)~~ "Seizure action plan" means a written, individualized health plan designed to
23 acknowledge and prepare for the health care needs of a student diagnosed with a
24 seizure disorder that is prepared by the student's treating physician.

25 ➔Section 2. KRS 158.836 is amended to read as follows:

- 26 (1) Upon fulfilling the requirements of KRS 158.834, a student with asthma or a
27 student who is at risk of having anaphylaxis may possess and use medications to

1 treat the asthma or anaphylaxis when at school, at a school-sponsored activity,
2 under the supervision of school personnel, or before and after normal school
3 activities while on school properties including school-sponsored child care or after-
4 school programs.

5 (2) A student who has a documented life-threatening allergy shall have:

6 (a) An ***injectable*** epinephrine ***device***~~[auto-injector]~~ provided by his or her parent
7 or guardian in his or her possession or in the possession of the school nurse,
8 school administrator, or his or her designee in all school environments that the
9 student may be in, including the classroom, the cafeteria, the school bus, and
10 on field trips; and

11 (b) A written individual health care plan in place for the prevention and proactive
12 management for the student in all school environments that the student may be
13 in, including the classroom, the cafeteria, the school bus, and on field trips.
14 The individual health care plan required under this paragraph may be
15 incorporated in the student's individualized education program required under
16 Pub. L. No. 94-142 or the student's 504 plan required under Pub. L. No. 93-
17 112.

18 (3) (a) Each school is encouraged to keep an ***injectable*** epinephrine ***device***~~[auto-
19 injector]~~ in a minimum of two (2) locations in the school, including but not
20 limited to the school office and the school cafeteria, so that epinephrine may
21 be administered to any student believed to be having a life-threatening allergic
22 or anaphylactic reaction. Schools electing to keep ***injectable*** epinephrine
23 ***device***~~[auto-injectors]~~ shall maintain them in a secure, accessible, but
24 unlocked location. The provisions of this paragraph shall apply to the extent
25 that the ***injectable*** epinephrine ***devices***~~[auto-injectors]~~ are donated to a school
26 or a school has sufficient funding to purchase the ***injectable*** epinephrine
27 ***devices***~~[auto-injectors]~~.

- 1 (b) *Each school is encouraged to keep a bronchodilator rescue inhaler in a*
 2 *minimum of two (2) locations in the school, including but not limited to the*
 3 *school office and athletic office, so that bronchodilator rescue inhalers may*
 4 *be administered to any student believed to be having asthma symptoms or*
 5 *respiratory distress. Schools electing to keep bronchodilator rescue inhalers*
 6 *shall maintain them in a secure, accessible, but unlocked location. The*
 7 *provisions of this paragraph shall apply to the extent that the*
 8 *bronchodilator rescue inhalers are donated to a school or a school has*
 9 *sufficient funding to purchase the bronchodilator rescue inhalers.*
- 10 (c) Each school electing to keep *injectable* epinephrine *devices or bronchodilator*
 11 *rescue inhalers*~~[auto-injectors]~~ shall implement policies and procedures for
 12 managing a student's life-threatening allergic reaction, ~~for~~ anaphylactic
 13 reaction, *or asthma* developed and approved by the local school board.
- 14 ~~(d)~~~~(e)~~ The Kentucky Department for Public Health shall develop clinical
 15 protocols in the school health section of the Core Clinical Service Guide
 16 manual that is maintained in the county or district public health department to
 17 address *injectable* epinephrine *devices and bronchodilator rescue*
 18 *inhalers*~~[auto-injectors]~~ kept by schools under this subsection and to advise
 19 on clinical administration of the *injectable* epinephrine *devices and*
 20 *bronchodilator rescue inhalers*~~[auto-injectors]~~. The protocols shall be
 21 developed in collaboration with local health departments or local clinical
 22 providers and local schools and local school districts.
- 23 (4) Any school employee authorized under KRS 156.502 to administer medication shall
 24 not be liable for any civil damages for ordinary negligence in acts or omissions
 25 resulting from the administration or the assistance in the administration of
 26 epinephrine *or a bronchodilator rescue inhaler* to any student believed in good
 27 faith to be having a life-threatening allergic or anaphylactic reaction *or asthma*

1 **symptoms or respiratory distress.**

2 ➔Section 3. KRS 311.645 is amended to read as follows:

3 As used in KRS 311.645 to 311.647:

- 4 (1) "Anaphylaxis" means an allergic reaction resulting from sensitization following
5 prior contact with an antigen which can be a life-threatening emergency, including
6 reactions triggered by, among other agents, foods, drugs, injections, insect stings,
7 and physical activity;
- 8 (2) "Administer" means to directly apply an **injectable** epinephrine **device**~~[auto-~~
9 ~~injector]~~ to the body of an individual;
- 10 (3) **"Asthma" means a respiratory condition marked by coughing, wheezing, or**
11 **shortness of breath often triggered by allergies, exercise, or irritants;**
- 12 **(4)** "Authorized entity" means an entity that may at any time have allergens present that
13 are capable of causing a severe allergic reaction and has an individual who holds a
14 certificate issued under KRS 311.646 on the premises or officially associated with
15 the entity. The term includes but is not limited to licensed child-care centers and
16 certified family child-care homes, restaurants, recreation camps, youth sports
17 leagues, theme parks and resorts, and sports arenas;
- 18 **(5) "Bronchodilator rescue inhaler" means medication used to relieve asthma**
19 **symptoms or respiratory distress along with devices and device components**
20 **needed to appropriately administer the medication, including but not limited to**
21 **disposable spacers;**
- 22 **(6)**~~[(4)]~~ "Certified individual" means an individual who successfully completes an
23 approved educational training program and **obtains**~~[obtain]~~ a certificate, as
24 described in KRS 311.646;
- 25 **(7)**~~[(5)]~~ "**Injectable** epinephrine **device**~~[auto-injector]~~" means a single-use device used
26 to administer a premeasured dose of epinephrine;
- 27 **(8)**~~[(6)]~~ "Health-care practitioner" means a physician or other health-care provider

1 who has prescriptive authority; and

2 ~~(9)~~~~(7)~~ "Self-administration" means an individual's administration of an **injectable**
3 epinephrine **device or bronchodilator rescue inhaler**~~[auto-injector]~~ on herself or
4 himself.

5 ➔Section 4. KRS 311.646 is amended to read as follows:

- 6 (1) A health-care practitioner may prescribe **injectable** epinephrine **devices and**
7 **bronchodilator rescue inhalers**~~[auto-injectors]~~ in the name of an authorized entity
8 or to a certified individual for use in accordance with this section.
- 9 (2) A pharmacist may dispense **injectable** epinephrine **devices and bronchodilator**
10 **rescue inhalers**~~[auto-injectors]~~ pursuant to a prescription issued in the name of an
11 authorized entity or to a certified individual.
- 12 (3) The Department for Public Health, the Kentucky Board of Medical Licensure, the
13 Kentucky Board of Nursing, the American Red Cross, or other training programs
14 approved by the Department for Public Health may conduct in-person or on-line
15 training for administering lifesaving treatment to persons believed in good faith to
16 be experiencing severe allergic reactions **and asthma symptoms or respiratory**
17 **distress** and issue a certificate of training to persons completing the training. The
18 training shall include instructions for recognizing the symptoms of anaphylaxis **and**
19 **asthma** and administering an **injectable** epinephrine **device or a bronchodilator**
20 **rescue inhaler**~~[auto-injector]~~.
- 21 (4) An individual who has a certificate issued under this section may:
- 22 (a) Receive a prescription for **injectable** epinephrine **devices and bronchodilator**
23 **rescue inhalers**~~[auto-injectors]~~ from a health-care practitioner;
- 24 (b) Possess prescribed **injectable** epinephrine **devices and bronchodilator rescue**
25 **inhalers**~~[auto-injectors]~~; and
- 26 (c) In an emergency situation when a physician is not immediately available and
27 the certified individual in good faith believes a person is experiencing a severe

1 allergic reaction, *asthma symptoms, or respiratory distress* regardless of
2 whether the person has a prescription for an *injectable* epinephrine *device or a*
3 *bronchodilator rescue inhaler*~~[auto-injector]~~ or has previously been
4 diagnosed with an allergy *or asthma*:

- 5 1. Administer an *injectable* epinephrine *device or a bronchodilator rescue*
6 *inhaler*~~[auto-injector]~~ to the person; and
- 7 2. Provide an *injectable* epinephrine *device or a bronchodilator rescue*
8 *inhaler*~~[auto-injector]~~ to the person for immediate self-administration.

9 (5) An authorized entity that acquires and stocks a supply of *injectable* epinephrine
10 *devices or bronchodilator rescue inhalers*~~[auto-injectors]~~ with a valid prescription
11 shall:

- 12 (a) Store the *injectable* epinephrine *devices and bronchodilator rescue*
13 *inhalers*~~[auto-injectors]~~ in accordance with manufacturer's instructions and
14 with any additional requirements established by the department; and
- 15 (b) Designate an employee or agent who holds a certificate issued under this
16 section to be responsible for the storage, maintenance, and general oversight
17 of *injectable* epinephrine *devices and bronchodilator rescue inhalers*~~[auto-~~
18 ~~injectors]~~ acquired by the authorized entity.

19 (6) Any individual or entity who administers or provides an *injectable* epinephrine
20 *device*~~[auto-injector]~~ to a person who is experiencing a severe allergic reaction shall
21 contact the local emergency medical services system as soon as possible.

22 (7) Any individual or entity who acquires and stocks a supply of *injectable* epinephrine
23 *devices*~~[auto-injectors]~~ in accordance with this section shall notify an agent of the
24 local emergency medical services system and the local emergency communications
25 or vehicle dispatch center of the existence, location, and type of the *injectable*
26 epinephrine *devices*~~[auto-injectors]~~ acquired if a severe allergic reaction has
27 occurred.

1 ➔Section 5. KRS 311.647 is amended to read as follows:

- 2 (1) Any individual or entity who, in good faith and without compensation, renders
3 emergency care or treatment by the use of an **injectable** epinephrine **device or a**
4 **bronchodilator rescue inhaler**~~[auto-injector]~~ shall be immune from civil liability
5 for any personal injury as a result of the care or treatment, or as a result of any act or
6 failure to act in providing or arranging further medical treatment, if the person acts
7 as an ordinary, reasonable prudent person would have acted under the same or
8 similar circumstances.
- 9 (2) The immunity from civil liability for any personal injury under subsection (1) of this
10 section includes:
- 11 (a) A health-care practitioner who prescribes or authorizes the emergency use of
12 the **injectable** epinephrine **device or bronchodilator rescue inhaler**~~[auto-~~
13 ~~injector]~~;
- 14 (b) A pharmacist who fills a prescription for the **injectable** epinephrine **device or**
15 **bronchodilator rescue inhaler**~~[auto-injector]~~;
- 16 (c) A certified individual who provides or administers the **injectable** epinephrine
17 **devices or bronchodilator rescue inhaler**~~[auto-injector]~~;
- 18 (d) An authorized entity who stores or provides the **injectable** epinephrine **device**
19 **or bronchodilator rescue inhaler**~~[auto-injector]~~ to a certified individual or
20 authorized noncertified individual; and
- 21 (e) An individual trainer or training entity providing the certified individual.
- 22 (3) The immunity from civil liability under subsection (1) of this section shall not apply
23 if the personal injury results from the gross negligence or willful or wanton
24 misconduct of the person rendering the emergency care.
- 25 (4) The requirements of KRS 311.646(6) shall not apply to any individual who provides
26 or administers an **injectable** epinephrine **device or a bronchodilator rescue**
27 **inhaler**~~[auto-injector]~~ if that individual is acting as a Good Samaritan under KRS

1 313.035 and 411.148.