

STATE OF OKLAHOMA

2nd Session of the 59th Legislature (2024)

HOUSE BILL 3034

By: Stinson

AS INTRODUCED

An Act relating to schools; creating the Emerson Kate Cole Act; amending 70 O.S. 2021, Section 1-116.3, which relates to school medication policies; requiring school to call 911 if Epinephrine is administered to a student; mandating school to notify parent if student experiences possible allergic reaction; requiring annual training for certain teachers and school employees; prescribing content and method for training; providing for noncodification; providing an effective date; and declaring an emergency.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. NEW LAW A new section of law not to be codified in the Oklahoma Statutes reads as follows:

This act shall be known and may be cited as the "Emerson Kate Cole Act".

SECTION 2. AMENDATORY 70 O.S. 2021, Section 1-116.3, is amended to read as follows:

Section 1-116.3 A. Notwithstanding the provisions of Section 1-116.2 of this title, the board of education of each school district shall adopt a policy on or before September 1, 2008, that

1 permits the self-administration of inhaled asthma medication by a
2 student for treatment of asthma, the self-administration of
3 anaphylaxis medication by a student for treatment of anaphylaxis,l
4 and the self-administration of replacement pancreatic enzymes by a
5 student for treatment of cystic fibrosis. The policy shall require:

6 1. The parent or guardian of the student to authorize in
7 writing the student's self-administration of medication;

8 2. The parent or guardian of the student to provide to the
9 school a written statement from the physician treating the student
10 that the student has asthma, anaphylaxis,l or cystic fibrosis and is
11 capable of, and has been instructed in the proper method of, self-
12 administration of medication;

13 3. The parent or guardian of the student to provide to the
14 school an emergency supply of the student's medication to be
15 administered pursuant to the provisions of Section 1-116.2 of this
16 title;

17 4. The school district to inform the parent or guardian of the
18 student, in writing, that the school district and its employees and
19 agents shall incur no liability as a result of any injury arising
20 from the self-administration of medication by the student; and

21 5. The parent or guardian of the student to sign a statement
22 acknowledging that the school district shall incur no liability as a
23 result of any injury arising from the self-administration of
24 medication by the student.
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1 B. The school board of each school district that elects to
2 stock Epinephrine injectors or inhalers shall amend the policy
3 identified in subsection A of this section.

4 1. The amended policy for Epinephrine injectors shall require:

5 a. the school district to inform the parent or guardian
6 of each student, in writing, that a school nurse or
7 school employee trained by a health care professional
8 or trained in correlation with the State Department of
9 Health's Diabetes Management Annual School Training
10 Program may administer, with parent or guardian
11 permission but without a health care provider order,
12 an Epinephrine injection to a student whom the school
13 nurse or trained school employee in good faith
14 believes is having an anaphylactic reaction,

15 b. a waiver of liability executed by a parent or guardian
16 be on file with the school district prior to the
17 administration of an Epinephrine injection pursuant to
18 paragraph 1 of this subsection, and

19 c. the school district to designate the employee
20 responsible for obtaining the Epinephrine injectors at
21 each school site.

22 2. The amended policy for inhalers shall require:

23 a. the school district to inform the parent or guardian
24 of each student, in writing, that a school nurse or
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1 school employee trained by a health care professional
2 may administer an inhaler to a student whom the school
3 nurse or trained school employee in good faith
4 believes is having respiratory distress,

5 b. the school district to designate the employee
6 responsible for obtaining the inhalers and spacers or
7 holding chambers at each school site, and

8 c. the school district to notify the parent or guardian
9 of a student after administration of an inhaler.

10 C. The school district and its employees and agents shall incur
11 no liability as a result of any injury arising pursuant to the
12 discharge or nondischarge of the powers provided for pursuant to
13 subparagraph a of paragraphs 1 and 2 of subsection B of this
14 section.

15 D. A licensed physician who has prescriptive authority may
16 write a prescription for Epinephrine injectors and inhalers and
17 spacers or holding chambers to the school district in the name of
18 the district as a body corporate specified in Section 5-105 of this
19 title which shall be maintained at each school site. Such physician
20 shall incur no liability as a result of any injury arising from the
21 use of the Epinephrine injectors or the inhalers and spacers or
22 holding chambers.

23 E. The school district may maintain at each school a minimum of
24 two Epinephrine injectors and two inhalers with spacers or holding
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1 chambers in a secure location. Provided, however, that nothing in
2 this section shall be construed as creating or imposing a duty on a
3 school district to maintain Epinephrine injectors or inhalers with
4 spacers or holding chambers at a school site or sites.

5 F. In the event a student is believed to be having an
6 anaphylactic reaction or respiratory distress, a school employee
7 shall contact 911 as soon as possible. If Epinephrine is
8 administered to a student, a school employee shall contact 911 as
9 soon as possible. The school district shall notify the parent or
10 guardian of any student who experiences a possible allergic reaction
11 as soon as possible.

12 G. The State Board of Education, in consultation with the State
13 Board of Health, shall develop model policies which school districts
14 may use in compliance with this section. The model policies shall
15 include, at a minimum, required annual training for teachers and
16 school employees who are directly responsible for students on the
17 topics of food allergies, recognizing anaphylaxis, and instruction
18 on how to administer Epinephrine. The training shall be completed
19 before the school year begins or upon hiring the teacher or school
20 employee. Documentation certifying completion of the required
21 training shall be retained in the personnel file for the teacher or
22 school employee. The training may be provided online or in-person
23 by the school nurse or a recognized food allergy and anaphylaxis
24 training program.

1 H. The State Board of Education, in consultation with the State
2 Board of Health, shall promulgate rules to implement this section.

3 I. As used in this section:

4 1. "Medication" means a metered dose inhaler or a dry powder
5 inhaler to alleviate asthmatic symptoms, prescribed by a physician
6 and having an individual label, an anaphylaxis medication used to
7 treat anaphylaxis including but not limited to Epinephrine injectors
8 prescribed by a physician and having an individual label, or
9 replacement pancreatic enzymes prescribed by a physician and having
10 an individual label; and

11 2. "Self-administration" means a student's use of medication
12 pursuant to prescription or written direction from a physician.

13 3. "Respiratory distress" means the perceived or actual
14 presence of coughing, wheezing or shortness of breath; and

15 4. "Inhaler" means a device that delivers a bronchodilator to
16 alleviate symptoms of respiratory distress that is manufactured in
17 the form of a metered-dose inhaler or dry-powder inhaler and that
18 may include a spacer or holding chamber that attaches to the inhaler
19 to improve the delivery of the bronchodilator.

20 J. The permission for self-administration of asthma,
21 anaphylaxis, or replacement pancreatic enzyme medication is
22 effective for the school year for which it is granted and shall be
23 renewed each subsequent school year upon fulfillment of the
24 requirements of this section.

1 K. A student who is permitted to self-administer asthma,
2 anaphylaxis, or replacement pancreatic enzyme medication pursuant to
3 this section shall be permitted to possess and use a prescribed
4 inhaler, anaphylaxis medication including but not limited to an
5 Epinephrine injector, or replacement pancreatic enzyme medication at
6 all times.

7 SECTION 3. This act shall become effective July 1, 2024.

8 SECTION 4. It being immediately necessary for the preservation
9 of the public peace, health or safety, an emergency is hereby
10 declared to exist, by reason whereof this act shall take effect and
11 be in full force from and after its passage and approval.

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