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SENATE BILL NO. 2218

Originated in Senate Fr Welch Secretary

SENATE BILL NO. 2218

AN ACT TO AMEND SECTIONS 37-11-71 AND 73-25-37, MISSISSIPPI CODE OF 1972, TO RECODIFY AND REVISE PROVISIONS REQUIRING SCHOOL DISTRICTS TO TAKE CERTAIN ACTIONS RELATING TO CHILDREN WITH ASTHMA AND ANAPHYLAXIS, TO BE REFERRED TO AS THE "MISSISSIPPI ASTHMA AND ANAPHYLAXIS CHILD SAFETY ACT"; TO REPEAL SECTION 41-79-31, MISSISSIPPI CODE OF 1972, WHICH PROVIDES FOR THE SELF-ADMINISTRATION OF ASTHMA MEDICATION AT SCHOOL; AND FOR RELATED PURPOSES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

SECTION 1. Section 37-11-71, Mississippi Code of 1972, is amended as follows:

37-11-71. (1) This act shall be known and may be cited as the "Mississippi Asthma and Anaphylaxis Child Safety Act."

(2) The Legislature finds:

(a) That anaphylaxis is a serious allergic reaction that is rapid in onset and may cause death. Common triggers of anaphylaxis include food, insect bites, certain medications, and latex, with food being the most common trigger in children. Forty percent (40%) to fifty percent (50%) of those diagnosed with a food allergy are judged to have a high risk of anaphylaxis, and

children with an undiagnosed food allergy may experience a first reaction at school. In addition, children with asthma are more at risk for anaphylaxis. Over ten percent (10%) of Mississippi children ages zero (0) through seventeen (17) years are living with asthma.

(b) That epinephrine is the primary treatment for anaphylaxis with no absolute contraindication to its use for a life-threatening reaction. The National Institute of Allergy and Infectious Diseases recommends that epinephrine be given promptly to treat anaphylaxis because delays in the administration of epinephrine can result in rapid decline and death. The American Academy of Allergy, Asthma and Immunology recommends that epinephrine injectors should be included in all emergency medical treatment kits in schools. The American Academy of Pediatrics recommends that anaphylaxis medications should be kept in each school and made available to trained staff for administration in an emergency.

(c) Therefore, the Legislature declares it is the intent of this act to protect the health and life of children in their school environment through the use of protocols and standing orders for the emergency treatment of asthma, anaphylaxis, and all other life-threatening diseases.

(3) The school board of each local public school district and the governing body of each private and parochial school or school district shall permit the self-administration of asthma and

anaphylaxis medication pursuant to the requirements of this section.

(4) As used in this section:

(a) "Parent" means parent or legal guardian.

(b) "Auto-injectable epinephrine" means a medical device for the immediate administration of epinephrine to a person at risk for anaphylaxis.

(c) "Asthma and anaphylaxis medication" means inhaled bronchodilator and auto-injectable epinephrine.

(d) "Self-administration of prescription asthma and/or anaphylaxis medication" means a student's discretionary use of prescription asthma and/or anaphylaxis medication.

(5) A student with asthma and/or anaphylaxis is entitled to possess and self-administer prescription asthma and/or anaphylaxis medication while on school property, on school-provided transportation, or at a school-related event or activity if:

(a) The prescription asthma and/or anaphylaxis medication has been prescribed for that student as indicated by the prescription label on the medication;

(b) The self-administration is done in compliance with the prescription or written instructions from the student's physician or other licensed health care provider; and

(c) A parent of the student provides to the school:

(i) Written authorization, signed by the parent, for the student to self-administer prescription asthma and/or

anaphylaxis medication while on school property or at a school-related event or activity;

(ii) A written statement, signed by the parent, in which the parent releases the school district and its employees and agents from liability for an injury arising from the student's self-administration of prescription asthma and/or anaphylaxis medication while on school property or at a school-related event or activity unless in cases of wanton or willful misconduct;

(iii) A written statement from the student's physician or other licensed health care provider, signed by the physician or provider, that states:

1. That the student has asthma and/or anaphylaxis and is capable of self-administering the prescription asthma and/or anaphylaxis medication;

2. The name and purpose of the medication;

3. The prescribed dosage for the medication;

4. The times at which or circumstances under which the medication may be administered; and

5. The period for which the medication is prescribed.

(6) The physician's statement must be kept on file in the office of the school nurse of the school the student attends or, if there is not a school nurse, in the office of the principal of the school the student attends.

(7) If a student uses his/her medication in a manner other than prescribed, he/she may be subject to disciplinary action under the school codes. The disciplinary action shall not limit or restrict the student's immediate access to the medication.

(8) The school board of each local public school district and the governing body of each private and parochial school or school district shall adopt a policy authorizing a school nurse or trained school employee to administer auto-injectable epinephrine to a student who the school nurse or trained school employee, in good faith, believes is having an anaphylactic reaction, whether or not the student has a prescription for epinephrine.

(9) Each public, private and parochial school may maintain a supply of auto-injectable epinephrine at the school in a locked, secure, and easily accessible location. A licensed physician, including, but not limited to, Mississippi State Department of Health District Health Officers, may prescribe epinephrine auto-injectors in the name of the school system or the individual school to be maintained for use when deemed necessary under the provisions of this section.

(10) Each public, private and parochial school that maintains a supply of auto-injectable epinephrine at the school shall require at least one (1) employee at each school to receive training from a registered nurse or a licensed medical physician in the administration of auto-injectable epinephrine.

(* * *11) The State Department of Education shall require each public school district to take the following actions relating to the management of asthma in the school setting:

(a) * * * Require that each child with asthma have a current * * * school asthma plan (SAP) on file at the child's school * * * for use by the school nurse, teachers and staff. Parents and guardians of a child with asthma are to have the child's * * * SAP developed and signed by the child's health care provider. The * * * SAP should include the * * * child's name, date, school, age, physician's signature, parent's signature, instructions to the school if coughing or wheezing, and indicate dosage and delivery method details. If pre-medication is required, the SAP shall indicate dosage and delivery method details. The SAP will recommend whether the student administers his or her own medication or that school personnel may administer medication. The * * * SAP must be updated annually.

(b) Adopt an emergency protocol that includes instructions for all school staff to follow in case of a major medical emergency for asthma and all other life-threatening diseases.

(c) Fully implement Section 41-79-31, which authorizes the self-administration of asthma medication at school by students.

(d) Provide comprehensive, in-service training on asthma for teachers, * * * school nurses, * * * and other staff

appointed by school administration. The training should include instruction on the use of * * * school asthma plans (SAPs), the requirements of Section 41-79-31, emergency protocols for asthma and policies in effect in that school relating to asthma.

(e) Require school nurses to attend certified asthma educators training. The cost of the training required for school nurses shall be paid by the American Lung Association.

(f) ~~Require local school health councils to conduct a school health needs assessment that addresses and supports the implementation of the following: healthy school environment, physical activity, staff wellness, counseling/psychological services, nutrition services, family/community involvement, health education and health services. The results of the assessment must be used in the development of long-range maintenance plans that include specific indoor air quality components for each school building. * * *~~

(g) Require local school health councils to adopt and support the implementation of a local school wellness policy that includes minimizing children's exposure to dust, gases, fumes and other pollutants that can aggravate asthma in the school setting. The policy must require the air quality and ventilation systems of schools to be assessed annually, which assessment may be accomplished with the Environmental Protection Agency's Tools for Schools Indoor Air Quality Checklist. The policy also must * * * minimize the use of hazardous substances such as, but not limited

to, chemical cleaning products and pesticides in and around school buildings during the hours that children are present at school. The policy must require all school construction projects to implement containment procedures * * * for dusts, gases, fumes and other pollutants that trigger asthma.

(h) Implement an integrated pest management program that includes procedural guidelines for pesticide application, education of building occupants and inspection and monitoring of pesticide applications. The integrated pest management program may limit the frequency, duration and volume of pesticide application on school grounds.

(i) Require school bus operators to minimize the idling of school bus engines to prevent exposure of children and adults to diesel exhaust fumes.

(j) * * * Allow schools and school districts, with a valid prescription, to accept donated auto-injectable epinephrine from public or private entities, and seek and apply for grants to obtain funding for purchasing auto-injectable epinephrine.

* * *

SECTION 2. Section 73-25-37, Mississippi Code of 1972, is amended as follows:

73-25-37. (1) No duly licensed, practicing physician, physician assistant, dentist, registered nurse, licensed practical nurse, certified registered emergency medical technician, or any other person who, in good faith and in the exercise of reasonable

care, renders emergency care to any injured person at the scene of an emergency, or in transporting the injured person to a point where medical assistance can be reasonably expected, shall be liable for any civil damages to the injured person as a result of any acts committed in good faith and in the exercise of reasonable care or omissions in good faith and in the exercise of reasonable care by such persons in rendering the emergency care to the injured person.

(2) (a) Any person who in good faith, with or without compensation, renders emergency care or treatment by the use of an Automated External Defibrillator (AED) in accordance with the provisions of Sections 41-60-31 through 41-60-35, as well as the person responsible for the site where the AED is located if the person has provided for compliance with the provisions of Sections 41-60-31 through 41-60-35, shall be immune from civil liability for any personal injury as a result of that care or treatment, or as a result of any act, or failure to act, in providing or arranging further medical treatment, where the person acts as an ordinary, reasonably prudent person would have acted under the same or similar circumstances and the person's actions or failure to act does not amount to willful or wanton misconduct or gross negligence.

(b) A person who has not complied with the provisions of Sections 41-60-31 through 41-60-35, but who has access to an AED and uses it in good faith in an emergency as an ordinary

prudent person would have done in the same or similar circumstances, shall be immune from civil liability for any personal injury as a result of an act or omission related to the operation of or failure to operate an AED if the person's actions or failure to act do not amount to willful or wanton misconduct or gross negligence.

(3) Any employee of a local public school district, a private school, or parochial school, trained in the administration of auto-injectable epinephrine, who provides, administers, or assists in the administration of auto-injectable epinephrine, in accordance with the provisions of Section 37-11-71, to a student believed in good faith to be having an anaphylactic reaction, shall be immune from civil liability for any personal injury as a result of that care or treatment if the employee's actions or failure to act do not amount to willful or wanton misconduct or gross negligence.

(* * *4) The immunity from civil liability for any personal injury under subsection (2) of this section includes the licensed physician who authorizes, directs or supervises the installation or provision of AED equipment in or on any premises or conveyance other than a medical facility, the owner of the premises where an AED is used, the purchaser of the AED, a person who uses an AED during an emergency for the purpose of attempting to save the life of another person who is or who appears to be in cardiac arrest, and the person who provides the CPR and AED training.

(5) The immunity from civil liability for any personal injury under subsection (3) of this section includes the licensed physician who prescribes the auto-injectable epinephrine, the school district, or any other entity, that legally obtained the auto-injectable epinephrine, and the person who provides the training in the administration of auto-injectable epinephrine.

(* * *6) The immunity from civil liability under subsection (2) and subsection (3) of this section does not apply if the personal injury results from the gross negligence or willful or wanton misconduct of the person rendering the emergency care.

SECTION 3. Section 41-79-31, Mississippi Code of 1972, which provides for the self-administration of asthma medication at school, is hereby repealed.

SECTION 4. This act shall take effect and be in force from and after July 1, 2014.

PASSED BY THE SENATE
March 19, 2014



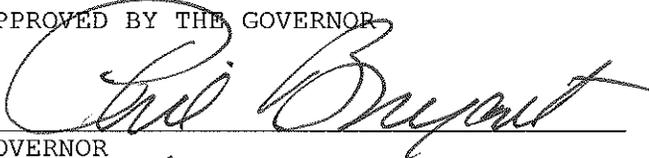
PRESIDENT OF THE SENATE

PASSED BY THE HOUSE OF REPRESENTATIVES
March 6, 2014



SPEAKER OF THE HOUSE OF REPRESENTATIVES

APPROVED BY THE GOVERNOR



GOVERNOR
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