

SCHOOL PRESCRIPTION AMENDMENTS

2024 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Mark A. Strong

Senate Sponsor: Jen Plumb

LONG TITLE

General Description:

This bill modifies provisions related to certain prescription drugs and schools.

Highlighted Provisions:

This bill:

- defines terms;
- allows certain health care providers to provide a prescription upon request to certain school employees or a school nurse for epinephrine and albuterol;
- requires the Department of Health and Human Services to issue standing prescription drug orders for epinephrine and albuterol;
- waives liability for certain persons; and
- makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:

26B-4-401, as renumbered and amended by Laws of Utah 2023, Chapter 307

26B-4-409, as renumbered and amended by Laws of Utah 2023, Chapter 307

26B-4-410, as renumbered and amended by Laws of Utah 2023, Chapter 307

58-17b-1005, as last amended by Laws of Utah 2020, Fifth Special Session, Chapter 4

Be it enacted by the Legislature of the state of Utah:

Section 1. Section **26B-4-401** is amended to read:

26B-4-401 . Definitions.

As used in this part:

- (1) "Agent" means a coach, teacher, employee, representative, or volunteer.
- (2) (a) "Amateur sports organization" means, except as provided in Subsection (2)(b):
- (i) a sports team;
 - (ii) a public or private school;
 - (iii) a public or private sports league;
 - (iv) a public or private sports camp; or
 - (v) any other public or private organization that organizes, manages, or sponsors a sporting event for its members, enrollees, or attendees.
- (b) "Amateur sports organization" does not include a professional:
- (i) team;
 - (ii) league; or
 - (iii) sporting event.
- (3) "Anaphylaxis" means a potentially life-threatening hypersensitivity to a substance.
- (a) Symptoms of anaphylaxis may include shortness of breath, wheezing, difficulty breathing, difficulty talking or swallowing, hives, itching, swelling, shock, or asthma.
- (b) Causes of anaphylaxis may include insect sting, food allergy, drug reaction, and exercise.
- (4) "Asthma action plan" means a written plan:
- (a) developed with a school nurse, a student's parent or guardian, and the student's health care provider to help control the student's asthma; and
 - (b) signed by the student's:
 - (i) parent or guardian; and
 - (ii) health care provider.
- (5) "Asthma emergency" means an episode of respiratory distress that may include symptoms such as wheezing, shortness of breath, coughing, chest tightness, or breathing difficulty.
- (6) "Child" means an individual who is under the age of 18.
- (7) "Department health care provider" means a health care provider who is acting in the capacity of a health care provider during employment for the department.
- ~~[(7)]~~ (8) "Epinephrine auto-injector" means a portable, disposable drug delivery device that contains a measured, single dose of epinephrine that is used to treat a person suffering a potentially fatal anaphylactic reaction.

- 62 ~~[(8)]~~ (9) "Health care provider" means an individual who is licensed as:
- 63 (a) a physician under Title 58, Chapter 67, Utah Medical Practice Act;
- 64 (b) a physician under Title 58, Chapter 68, Utah Osteopathic Medical Practice Act;
- 65 (c) an advanced practice registered nurse under Section 58-31b-302; or
- 66 (d) a physician assistant under Title 58, Chapter 70a, Utah Physician Assistant Act.
- 67 ~~[(9)]~~ (10) "Pharmacist" means the same as that term is defined in Section 58-17b-102.
- 68 ~~[(10)]~~ (11) "Pharmacy intern" means the same as that term is defined in Section 58-17b-102.
- 69 ~~[(11)]~~ (12) "Physician" means the same as that term is defined in Section 58-67-102.
- 70 (13) "Public school" means a district school or a charter school.
- 71 ~~[(12)]~~ (14) "Qualified adult" means a person who:
- 72 (a) is ~~[18 years of age or older]~~ at least 18 years old; and
- 73 (b) (i) for purposes of administering an epinephrine auto-injector, has successfully
- 74 completed the training program established in Section 26B-4-407; and
- 75 (ii) for purposes of administering stock albuterol, has successfully completed the
- 76 training program established in Section 26B-4-408.
- 77 ~~[(13)]~~ (15) "Qualified epinephrine auto-injector entity":
- 78 (a) means a facility or organization that employs, contracts with, or has a similar
- 79 relationship with a qualified adult who is likely to have contact with another person
- 80 who may experience anaphylaxis; and
- 81 (b) includes:
- 82 (i) recreation camps;
- 83 (ii) an education facility, school, or university;
- 84 (iii) a day care facility;
- 85 (iv) youth sports leagues;
- 86 (v) amusement parks;
- 87 (vi) food establishments;
- 88 (vii) places of employment; and
- 89 (viii) recreation areas.
- 90 ~~[(14)]~~ (16) "Qualified health care provider" means a health care provider who:
- 91 (a) is licensed under Title 58, Occupations and Professions; and
- 92 (b) may evaluate and manage a concussion within the health care provider's scope of
- 93 practice.
- 94 ~~[(15)]~~ (17) "Qualified stock albuterol entity" means a public or private school that employs,
- 95 contracts with, or has a similar relationship with a qualified adult who is likely to have

contact with another person who may experience an asthma emergency.

[(16)] (18) (a) "Sporting event" means any of the following athletic activities that is organized, managed, or sponsored by an organization:

- (i) a game;
- (ii) a practice;
- (iii) a sports camp;
- (iv) a physical education class;
- (v) a competition; or
- (vi) a tryout.

(b) "Sporting event" does not include:

- (i) the issuance of a lift ticket or pass by a ski resort, the use of the ticket or pass, or a ski or snowboarding class or school at a ski resort, unless the skiing or snowboarding is part of a camp, team, or competition that is organized, managed, or sponsored by the ski resort;
- (ii) as applied to a government entity, merely making available a field, facility, or other location owned, leased, or controlled by the government entity to an amateur sports organization or a child, regardless of whether the government entity charges a fee for the use; or
- (iii) free play or recess taking place during school hours.

[(17)] (19) "Stock albuterol" means a prescription inhaled medication:

- (a) used to treat asthma; and
- (b) that may be delivered through a device, including:
 - (i) an inhaler; or
 - (ii) a nebulizer with a mouthpiece or mask.

[(18)] (20) "Traumatic head injury" means an injury to the head arising from blunt trauma, an acceleration force, or a deceleration force, with one of the following observed or self-reported conditions attributable to the injury:

- (a) transient confusion, disorientation, or impaired consciousness;
- (b) dysfunction of memory;
- (c) loss of consciousness; or
- (d) signs of other neurological or neuropsychological dysfunction, including:
 - (i) seizures;
 - (ii) irritability;
 - (iii) lethargy;

- (iv) vomiting;
- (v) headache;
- (vi) dizziness; or
- (vii) fatigue.

Section 2. Section **26B-4-409** is amended to read:

26B-4-409 . Authority to obtain and use an epinephrine auto-injector or stock albuterol.

~~[(1) A qualified adult who is a teacher or other school employee at a public or private primary or secondary school in the state, or a school nurse, may obtain from the school district physician, the medical director of the local health department, or the local emergency medical services director a prescription for:]~~

~~[(a) epinephrine auto-injectors for use in accordance with this part; or]~~

~~[(b) stock albuterol for use in accordance with this part.]~~

(1) The school district physician, a department health care provider, the medical director of the local health department, or the local emergency medical services director may provide a prescription for the following if requested by a qualified adult, who is a teacher or other school employee at a public or private primary or secondary school in the state, or a school nurse:

(a) epinephrine auto-injectors for use in accordance with this part; or

(b) stock albuterol for use in accordance with this part.

(2) (a) A qualified adult may obtain an epinephrine auto-injector for use in accordance with this part that is dispensed by:

(i) a pharmacist as provided under Section 58-17b-1004; or

(ii) a pharmacy intern as provided under Section 58-17b-1004.

(b) A qualified adult may obtain stock albuterol for use in accordance with this part that is dispensed by:

(i) a pharmacist as provided under Section 58-17b-1004; or

(ii) a pharmacy intern as provided under Section 58-17b-1004.

(3) A qualified adult:

(a) may immediately administer an epinephrine auto-injector to a person exhibiting potentially life-threatening symptoms of anaphylaxis when a physician is not immediately available; and

(b) shall initiate emergency medical services or other appropriate medical follow-up in accordance with the training materials retained under Section 26B-4-407 after

administering an epinephrine auto-injector.

(4) If a school nurse is not immediately available, a qualified adult:

(a) may immediately administer stock albuterol to an individual who:

(i) has a diagnosis of asthma by a health care provider;

(ii) has a current asthma action plan on file with the school; and

(iii) is showing symptoms of an asthma emergency as described in the student's

asthma action plan; and

(b) shall initiate appropriate medical follow-up in accordance with the training materials

retained under Section 26B-4-408 after administering stock albuterol.

(5) (a) A qualified entity that complies with Subsection (5)(b) or (c), may obtain a

supply of epinephrine auto-injectors or stock albuterol, respectively, from a

pharmacist under Section 58-17b-1004, or a pharmacy intern under Section

58-17b-1004 for:

(i) storing:

(A) the epinephrine auto-injectors on the qualified epinephrine auto-injector

entity's premises; and

(B) stock albuterol on the qualified stock albuterol entity's premises; and

(ii) use by a qualified adult in accordance with Subsection (3) or (4).

(b) A qualified epinephrine auto-injector entity shall:

(i) designate an individual to complete an initial and annual refresher training

program regarding the proper storage and emergency use of an epinephrine

auto-injector available to a qualified adult; and

(ii) store epinephrine auto-injectors in accordance with the standards established by

the department in Section 26B-4-411.

(c) A qualified stock albuterol entity shall:

(i) designate an individual to complete an initial and annual refresher training

program regarding the proper storage and emergency use of stock albuterol

available to a qualified adult; and

(ii) store stock albuterol in accordance with the standards established by the

department in Section 26B-4-411.

Section 3. Section **26B-4-410** is amended to read:

26B-4-410 . Immunity from liability.

(1) The following, if acting in good faith, are not liable in any civil or criminal action for

any act taken or not taken under the authority of Sections 26B-4-406 through 26B-4-411

with respect to an anaphylactic reaction, or asthma emergency:

- (a) a qualified adult;
- (b) a physician, pharmacist, or any other person or entity authorized to prescribe or dispense prescription drugs;
- (c) a person who conducts training described in Section 26B-4-407 or 26B-4-408;
- (d) a qualified epinephrine auto-injector entity; [and]
- (e) a qualified stock albuterol entity[.];
- (f) the department;
- (g) a local health department;
- (h) a local education agency; and
- (i) a local emergency medical services entity.

(2) Section 53G-9-502 does not apply to the administration of an epinephrine auto-injector or stock albuterol in accordance with this part.

(3) This section does not eliminate, limit, or reduce any other immunity from liability or defense against liability that may be available under state law.

Section 4. Section **58-17b-1005** is amended to read:

58-17b-1005 . Standing prescription drug orders for epinephrine auto-injectors and stock albuterol.

[(1) A physician acting in the physician's capacity as an employee of the Department of Health or as a medical director of a local health department may issue a standing prescription drug order authorizing the dispensing of an epinephrine auto-injector under Section 58-17b-1004 in accordance with a protocol that:]

[(a) requires the physician to specify the persons, by professional license number, authorized to dispense the epinephrine auto-injector;]

[(b) requires the physician to review at least annually the dispensing practices of those authorized by the physician to dispense the epinephrine auto-injector;]

[(c) requires those authorized by the physician to dispense the epinephrine auto-injector to make and retain a record of each dispensing, including:]

[(i) the name of the qualified adult or qualified epinephrine auto-injector entity to whom the epinephrine auto-injector is dispensed;]

[(ii) a description of the epinephrine auto-injector dispensed; and]

[(iii) other relevant information; and]

[(d) is approved by the division by administrative rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, in collaboration with the Physicians

Licensing Board created in Section 58-67-201 and the Board of Pharmacy.]

(1) As used in this section:

(a) "Epinephrine protocol" means a protocol that:

(i) requires a physician to specify the persons, by professional license number, authorized to dispense the epinephrine auto-injector;

(ii) requires a physician to review at least annually the dispensing practices of the persons authorized by the physician to dispense the epinephrine auto-injector;

(iii) requires those authorized by a physician to dispense the epinephrine auto-injector to make and retain a record of each dispensing, including:

(A) the name of the qualified adult or qualified epinephrine auto-injector entity to whom the epinephrine auto-injector is dispensed;

(B) a description of the epinephrine auto-injector dispensed; and

(C) other relevant information; and

(iv) is approved by the division through rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, in collaboration with the Physicians Licensing Board created in Section 58-67-201 and the board.

(b) "Stock albuterol protocol" means a protocol that:

(i) requires a physician to specify the persons, by professional license number, authorized to dispense the stock albuterol;

(ii) requires a physician to review at least annually the dispensing practices of the persons authorized by the physician to dispense the stock albuterol;

(iii) requires those authorized by the physician to dispense the stock albuterol to make and retain a record of each dispensing, including:

(A) the name of the qualified adult or qualified stock albuterol entity to whom the stock albuterol is dispensed;

(B) a description of the stock albuterol dispensed; and

(C) other relevant information; and

(iv) is approved by the division through rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, in collaboration with the Physicians Licensing Board created in Section 58-67-201 and the board.

[(2) ~~A physician acting in the physician's capacity as an employee of the Department of Health or as a medical director of a local health department may issue a standing prescription drug order authorizing the dispensing of stock albuterol under Section 58-17b-1004 in accordance with a protocol that:]~~

- 266 [(a) requires the physician to specify the persons, by professional license number,
267 authorized to dispense the stock albuterol;]
268 [(b) requires the physician to review at least annually the dispensing practices of those
269 authorized by the physician to dispense the stock albuterol;]
270 [(c) requires those authorized by the physician to dispense the stock albuterol to make and
271 retain a record of each dispensing, including:]
272 [(i) the name of the qualified adult or qualified stock albuterol entity to whom the stock
273 albuterol is dispensed;]
274 [(ii) a description of the stock albuterol dispensed; and]
275 [(iii) other relevant information; and]
276 [(d) is approved by the division by administrative rule made in accordance with Title 63G,
277 Chapter 3, Utah Administrative Rulemaking Act, in collaboration with the Physicians
278 Licensing Board created in Section 58-67-201 and the board.]

279 (2) Under Section 58-17b-1004, the Department of Health and Human Services shall have a
280 physician acting in the physician's capacity as an employee of the Department of Health
281 and Human Services issue a standing prescription drug order authorizing the dispensing
282 of:

- 283 (a) an epinephrine auto-injector in accordance with an epinephrine protocol; and
284 (b) stock albuterol in accordance with a stock albuterol protocol.

285 (3) Under Section 58-17b-1004, a medical director of a local health department may issue a
286 standing prescription drug order authorizing the dispensing of:

- 287 (a) an epinephrine auto-injector in accordance with an epinephrine protocol; or
288 (b) stock albuterol in accordance with a stock albuterol protocol.

289 Section 5. **Effective date.**

290 This bill takes effect on August 1, 2024.