

BILL ANALYSIS

Senate Research Center

S.B. 869
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Education
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Enrolled

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

The Texas Department of State Health Services (DSHS) Guidelines for the Care of Students with Food Allergies At-Risk for Anaphylaxis were last published and updated in 2012. The guidelines focus on preventing allergen exposure in school settings and responding effectively to students experiencing anaphylaxis. They also recommend educational outreach to school staff, parents, and students on the issue of severe food allergies.

The DSHS guidelines, however, do not require education or training on general food allergy treatments, including new methods, treatments, and therapies to reduce the risk of allergic reactions. There is a conspicuous gap in the guidelines with respect to recent innovative developments and updates in school food allergy management and anaphylaxis prevention. Updated guidelines that reflect the latest research are even more justified given allergy-related hospitalizations and deaths in school and child-care settings.

S.B. 869 would direct the commissioner of state health services to appoint a committee tasked with updating current guidelines and providing that information on the agency's website as well as make that information available to students at each school district and open-enrollment charter school. (Original Author's/Sponsor's Statement of Intent)

S.B. 869 amends current law relating to guidelines for policies of school districts and open-enrollment charter schools for the care of certain students at risk for anaphylaxis.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 38.0151, Education Code, by amending Subsections (a), (b), and (e) and adding Subsections (g), (h), (i), and (j), as follows:

(a) Requires the board of trustees of each school district and the governing body or an appropriate officer of each open-enrollment charter school to adopt and administer a policy for the care of students with a diagnosed food allergy at risk for anaphylaxis based on "Guidelines for the Care of Students With Food Allergies At-Risk for Anaphylaxis" developed by the commissioner of state health services (commissioner) under this section (Policies For Care of Certain Students at Risk For Anaphylaxis) and updated by the commissioner in consultation with an ad hoc committee appointed by the commissioner as provided by Section 38.0152, rather than based on guidelines developed by the commissioner in consultation with an ad hoc committee appointed by the commissioner. Requires the guidelines and any recommendation to update the guidelines regarding medical treatment or therapy to be scientifically valid.

(b) Requires a school district or open-enrollment charter school to annually review and, as necessary, revise its policy for the care of students with a diagnosed food allergy at risk for anaphylaxis to ensure the policy is consistent with the most current version of the guidelines described by Subsection (a), rather requiring a school district or

open-enrollment charter school that implemented a policy for the care of students with a diagnosed food allergy at risk for anaphylaxis before the development of the guidelines described by Subsection (a) to review and revise the policy as necessary to ensure the policy is consistent with the guidelines.

(e) Requires the Texas Education Agency (TEA) to post the guidelines described by Subsection (a), rather than the guidelines developed by the commissioner under this section, on the TEA website with any other information relating to students with special health needs. Requires the information posted by TEA to include a summary of the guidelines. Requires TEA to annually review and, as necessary, revise the summary and any other information to reflect the most current version of the guidelines.

(g) Requires the board of trustees of each school district and the governing body of each open-enrollment charter school, each school year, to post a summary of the guidelines on the district's or school's Internet website, including instructions on obtaining access to the complete guidelines document. Requires the district's or school's website to be accessible by each student enrolled in the district or school and a parent or guardian of each student. Requires any forms used by a district or school requesting information from a parent or guardian enrolling a child with a food allergy in the district or school to include information to access on the district's or school's Internet website a summary of the guidelines and instructions on obtaining access to the complete guidelines document.

(h) Prohibits the guidelines described by Subsection (a) from:

(1) requiring a school district or open-enrollment charter school to purchase treatments approved by the United States Food and Drug Administration (FDA) or making any other expenditure that would result in a negative fiscal impact on the district or school; or

(2) requiring the personnel of a district or school to administer treatments approved by the FDA to a student unless the medication is prescribed for that student by the student's physician.

(i) Provides that this section does not waive any liability or immunity of a school district or open-enrollment charter school or district or school officers or employees or create any liability for or a cause of action against a school district or open-enrollment charter school or district or school officers or employees.

(j) Provides that, notwithstanding any other law, this section, including any information or materials developed under this section and the dissemination of information or materials developed under this section, does not create a civil, criminal, or administrative cause of action or liability or create a standard of care, obligation, or duty that provides the basis for a cause of action.

SECTION 2. Amends Subchapter A, Chapter 38, Education Code, by adding Section 38.0152, as follows:

Sec. 38.0152. COMMITTEE TO ASSIST IN UPDATING GUIDELINES FOR CARE OF STUDENTS AT RISK FOR ANAPHYLAXIS. (a) Defines "commissioner," and "guidelines" and defines "department" as the Department of State Health Services (DSHS).

(b) Requires the commissioner to appoint members to an ad hoc committee (committee) to consult with the commissioner on updating the current guidelines to incorporate and specifically reference any new food-allergy management best practices and treatments, including new methods, treatments, and therapies to reduce the risk of allergic reactions.

(c) Requires the committee to include:

- (1) not more than one representative from DSHS and the Texas Nurses Association;
- (2) at least two individuals from one or more national patient advocacy organizations representing the interests of food allergies, anaphylaxis, and related medical issues, including asthma;
- (3) one principal of a public elementary school campus at which one or more students with a diagnosed food allergy at risk for anaphylaxis are enrolled;
- (4) one classroom teacher employed at a public elementary school campus at which one or more students with a diagnosed food allergy at risk for anaphylaxis are enrolled;
- (5) one superintendent of a school district;
- (6) one member of a board of trustees of a school district;
- (7) one member of a governing body of an open-enrollment charter school;
- (8) at least two parents of public school students with a diagnosed food allergy at risk for anaphylaxis; and
- (9) at least four physicians board certified in allergy and immunology by the American Board of Allergy and Immunology; and
- (10) at least one physician board certified in general pediatrics by the American Board of Pediatrics who is a member of a statewide pediatric organization.

(d) Requires committee members to serve for a period determined by the commissioner. Requires the commissioner, on the resignation of a member of the committee or the removal of a member from the committee by the commissioner, to appoint a new member to the committee who qualifies for the committee in the same manner that the member who resigned or is removed qualified.

(e) Provides that Section 2110.005 (Agency-Developed Statement of Purpose and Tasks; Reporting Requirements), Government Code, does not apply to the ad hoc committee appointed under this section.

(f) Requires any recommendations on updating the current guidelines regarding medical treatment or therapies to be submitted by the physicians directly to the commissioner, provided that those recommendations are authorized to only be submitted to the commissioner if approved by a majority of the physicians serving on the committee.

(g) Requires the commissioner, at least one every three years, to order a meeting of the committee to update the guidelines to incorporate any new food-allergy management best practices and treatments.

(h) Authorizes the commissioner to order a meeting of the committee at any time the commissioner determines necessary for the committee to discuss the protection of students with food allergies at risk for anaphylaxis and update the guidelines.

SECTION 3. Requires the commissioner to:

(1) not later than October 1, 2019, appoint the members of the ad hoc committee described by Section 38.0152, Education Code, as added by this Act, to consult with the commissioner on updating and maintaining the "Guidelines for the Care of Students With Food Allergies At-Risk for Anaphylaxis" as provided by that section; and

(2) not later than March 1, 2020, in consultation with the ad hoc committee, update the guidelines as necessary.

SECTION 4. Effective date: upon passage or September 1, 2019.