

ENGROSSED LEGISLATIVE BILL 457

Introduced by Bostar, 29.

A BILL FOR AN ACT relating to public health and welfare; to amend section 71-1908, Revised Statutes Cumulative Supplement, 2024; to require the Department of Health and Human Services in consultation with the State Department of Education to develop model policies relating to anaphylaxis for use in school districts and licensed child care programs as prescribed; to change provisions of the Child Care Licensing Act; to require school districts to adopt a policy relating to anaphylaxis as prescribed; to provide powers and duties to the Department of Health and Human Services and the State Department of Education; to limit the out-of-pocket cost of medically necessary epinephrine injectors to a covered individual as prescribed; to harmonize provisions; and to repeal the original section.

Be it enacted by the people of the State of Nebraska,

Section 1. (1) The Department of Health and Human Services shall in consultation with the State Department of Education develop model anaphylaxis policies available for use in school districts and licensed child care programs setting forth guidelines and procedures to be followed for the prevention of anaphylaxis and during a medical emergency resulting from anaphylaxis. Such policies may be developed with input from representatives of allergy medicine, pediatric physicians, school nurses and other health care providers with expertise in treating children with anaphylaxis, parents of children with severe allergies, school administrators, teachers, school food service directors, and other appropriate entities.

(2) Such policies shall include as applicable:

(a) A procedure and treatment plan, including emergency protocols and responsibilities for staff members of licensed child care programs, school nurses, and other appropriate school personnel, for responding to anaphylaxis;

(b) A procedure and appropriate guidelines for the development and implementation of an individualized health care plan for children with a food or other allergy which could result in anaphylaxis;

(c) A communication plan for the intake and dissemination of information provided by the state regarding children with a food or other allergy which could result in anaphylaxis, including a discussion of methods, treatments, and therapies to reduce the risk of allergic reactions, including anaphylaxis;

(d) Strategies for the reduction of the risk of exposure to anaphylactic causative agents, including food and other allergens; and

(e) A communication plan for discussion with children that have developed adequate verbal communication and comprehension skills and with the parents, guardians, and educational decisionmakers of all children attending the school district or licensed child care program about foods that are safe and unsafe and about strategies to avoid exposure to unsafe food.

(3) The policies developed pursuant to this section shall be reexamined and updated as needed at least once every three years to be consistent with best practices relating to anaphylaxis prevention, treatment, and emergency response methods.

(4) A model policy developed or updated pursuant to this section shall be made available on the applicable department's website.

(5) For purposes of this section:

(a) Licensed child care program means a facility or program licensed under the Child Care Licensing Act; and

(b) School district has the same meaning as in section 79-101.

Sec. 2. Section 71-1908, Revised Statutes Cumulative Supplement, 2024, is amended to read:

71-1908 (1) Sections 71-1908 to 71-1923.03 and section 3 of this act shall be known and may be cited as the Child Care Licensing Act.

(2) The Legislature finds that there is a present and growing need for quality child care programs and facilities. There is a need to establish and maintain licensure of persons providing such programs to ensure that such

persons are competent and are using safe and adequate facilities. The Legislature further finds and declares that the development and supervision of programs are a matter of statewide concern and should be dealt with uniformly on the state and local levels. There is a need for cooperation among the various state and local agencies which impose standards on licensees, and there should be one agency which coordinates the enforcement of such standards and informs the Legislature about cooperation among the various agencies.

Sec. 3. (1) Beginning July 1, 2026, a program licensed pursuant to the Child Care Licensing Act without a policy in effect at such time, that cares for a child with a known food or other allergy, shall adopt a specific policy to address incidents of anaphylaxis involving children at the program. The adopted policy may use the model policy for use in licensed child care programs developed pursuant to section 1 of this act as a guide.

(2) A program licensed pursuant to the Child Care Licensing Act that cares for a child with a known food or other allergy shall publish such program's anaphylaxis policy in the parent handbook, program manual, or other similar publication of the program which sets forth the procedures and standards of the program.

(3) Nothing in this section shall be construed to change the personal rights, liabilities, and immunities granted pursuant to section 25-21,280 of certain individuals responding to or treating life-threatening asthma or a systemic allergic reaction.

Sec. 4. (1) The Legislature finds and declares that all students with anaphylaxis have a right to work and study in a safe environment and that it is an obligation of schools to address the needs of students with anaphylaxis.

(2) On or before July 1, 2026, the school board of each school district shall adopt a written policy to address incidents of anaphylaxis involving students at school. A school board may use the model policy for use in school districts developed pursuant to section 1 of this act as a guide. Such policy shall not conflict with or hinder the implementation of an individualized anaphylaxis plan of a student and shall be consistent with section 79-224

relating to self-management by a student.

(3) A school district shall publish the policy in any school district handbook, manual, or similar publication that sets forth the comprehensive rules, procedures, and standards of conduct for students at school.

(4) A school district with a policy to address incidents of anaphylaxis involving students at school that is in effect prior to the effective date of this act may remain in effect and shall satisfy the requirements of subsection (2) of this section.

(5) Nothing in this section shall be construed to change the personal rights, liabilities, and immunities granted pursuant to section 25-21,280 of certain individuals responding to or treating life-threatening asthma or a systemic allergic reaction.

Sec. 5. (1)(a) Except as provided in subdivision (b) of this subsection, beginning January 1, 2026, and notwithstanding section 44-3,131, (i) any individual or group sickness and accident insurance policy or subscriber contract delivered, issued for delivery, or renewed in this state and any hospital, medical, or surgical expense-incurred policy, except for policies that provide coverage for a specified disease or other limited-benefit coverage, and (ii) any self-funded employee benefit plan to the extent not preempted by federal law, which provides coverage for medically necessary epinephrine injectors shall limit the total amount that a covered individual is required to pay for a two-pack of medically necessary epinephrine injectors at an amount not to exceed sixty dollars, regardless of the type of epinephrine injector.

(b) If the requirement described in subdivision (a) of this subsection would result in the ineligibility of a health savings account under section 223 of the Internal Revenue Code, such requirement for such health savings account shall only apply after the enrollee has satisfied the minimum deductible under section 223 of the Internal Revenue Code, except that for items or services that are preventive care pursuant to section 223(c)(2)(C) of the Internal Revenue Code, such requirement shall apply regardless of whether the minimum

deductible under section 223 of the Internal Revenue Code has been satisfied.

(2) Nothing in this section prevents a policy, contract, or plan from reducing the total amount that a covered individual is required to pay for each covered medically necessary epinephrine injector to an amount less than the maximum specified in subsection (1) of this section.

Sec. 6. Original section 71-1908, Revised Statutes Cumulative Supplement, 2024, is repealed.

PRESIDENT OF THE LEGISLATURE

THIS IS TO CERTIFY that the within LB 457 was passed by the One Hundred Ninth Legislature of Nebraska at its First Session on the day of 20.....

CLERK OF THE LEGISLATURE

Approved:

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GOVERNOR