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11 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

13                   **Section 1.** Section 20-5-420, MCA, is amended to read:

14                   **"20-5-420. Self-administration or possession of asthma, severe allergy, or anaphylaxis**

15                   **medication -- definitions.** (1) As used in 20-5-421, [section 2], and this section, the following definitions apply:

16                   (a)     "Anaphylaxis" means a systemic allergic reaction that can be fatal in a short time period and is

17                   also known as anaphylactic shock.

18 (b) "Asthma" means a chronic disorder or condition of the lungs that requires lifetime, ongoing  
19 medical intervention.

20 (c) "Authorized personnel" means an employee or agent identified by a school who is approved by  
21 the school administrator to administer a stock medication in a school setting or at a related activity pursuant to  
22 20-5-421, [section 2], or 20-5-426.

23           (e)(d) "Medication" means a medicine, including inhaled bronchodilators, inhaled corticosteroids, and  
24           autoinjectable epinephrine, prescribed by a licensed physician as defined in 37-3-102, a physician assistant  
25           who has been authorized to prescribe medications as provided in 37-20-404, or an advanced practice  
26           registered nurse with prescriptive authority as provided in 37-8-202(1)(h).

27 (e) "Respiratory distress" means a person's inability to breathe adequately, including the perceived  
28 or actual presence of associated symptoms such as coughing, wheezing, or shortness of breath.

1                   (d)(f) "Self-administration" means a pupil's discretionary use of the medication prescribed for the  
2 pupil.

3                   (e)(g) "Severe allergies" means a life-threatening hypersensitivity to a specific substance such as  
4 food, pollen, or dust.

5                   (h) "Stock albuterol" means quick-relief asthma medication that is approved by the United States  
6 food and drug administration for the treatment of respiratory distress. The term includes albuterol medication  
7 delivered through a metered dose inhaler or dry-powder inhaler that includes a spacer or holding chamber that  
8 attaches to a metered dose inhaler to improve the delivery of medication.

9                   (2) A school, whether public or nonpublic, shall permit the possession or self-administration of  
10 medication, as prescribed, by a pupil with asthma, severe allergies, or anaphylaxis if the parents or guardians  
11 of the pupil provide to the school:

12                   (a) written authorization, acknowledging and agreeing to the liability provisions in subsection (4),  
13 for the possession or self-administration of medication as prescribed;

14                   (b) a written statement from the pupil's physician, physician assistant, or advanced practice  
15 registered nurse containing the following information:

16                   (i) the name and purpose of the medication;

17                   (ii) the prescribed dosage; and

18                   (iii) the time or times at which or the special circumstances under which the medication is to be  
19 administered as prescribed;

20                   (c) documentation that the pupil has demonstrated to the health care practitioner and the school  
21 nurse, if available, the skill level necessary to self-administer the asthma, severe allergy, or anaphylaxis  
22 medication as prescribed; and

23                   (d) documentation that the pupil's physician, physician assistant, or advanced practice registered  
24 nurse has formulated a written treatment plan for managing asthma, severe allergies, or anaphylaxis episodes  
25 of the pupil and for medication use, as prescribed, by the pupil during school hours.

26                   (3) The information provided by the parents or guardians must be kept on file in the office of the  
27 school nurse or, in the absence of a school nurse, the school's administrator.

28                   (4) The school district or nonpublic school and its employees and agents are not liable as a result

1 of any injury arising from the self-administration of medication by the pupil unless an act or omission is the  
2 result of gross negligence, willful and wanton conduct, or an intentional tort. The parents or guardians of the  
3 pupil must be given a written notice and sign a statement acknowledging that the school district or nonpublic  
4 school may not incur liability as a result of any injury arising from the self-administration of medication by the  
5 pupil and that the parents or guardians shall indemnify and hold harmless the school district or nonpublic school  
6 and its employees and agents against any claims, except a claim based on an act or omission that is the result  
7 of gross negligence, willful or wanton misconduct, or an intentional tort.

8 (5) The permission for self-administration of asthma, severe allergy, or anaphylaxis medication is  
9 effective for the school year for which it is granted and must be renewed each subsequent school year or, if the  
10 medication expires or the dosage, frequency of administration, or other conditions change, upon fulfillment of  
11 the requirements of this section.

12 (6) If the requirements of this section are fulfilled, a pupil with asthma, severe allergies, or  
13 anaphylaxis may possess and use the pupil's medication as prescribed:

14 (a) while in school;  
15 (b) while at a school-sponsored activity;  
16 (c) while under the supervision of school personnel;  
17 (d) before or after normal school activities, such as while in before-school or after-school care on  
18 school-operated property; or  
19 (e) while in transit to or from school or school-sponsored activities.

20 (7) If provided by the parent, an individual who has executed a caretaker relative educational  
21 authorization affidavit pursuant to 20-5-503, an individual who has executed a caretaker relative medical  
22 authorization affidavit pursuant to 40-6-502, or a guardian and in accordance with documents provided by the  
23 pupil's physician, physician assistant, or advanced practice registered nurse, asthma, severe allergy, or  
24 anaphylaxis medication may be kept by the pupil and backup medication must be kept at a pupil's school in a  
25 predetermined location or locations to which the pupil has access in the event of an asthma, severe allergy, or  
26 anaphylaxis emergency.

27 (8) Immediately after using epinephrine during school hours, a student shall report to the school  
28 nurse or other adult at the school who shall provide followup care, including making a 9-1-1 emergency call.

1 (9) Youth correctional facilities are exempt from this section and shall adopt policies related to  
2 access and use of asthma, severe allergy, or anaphylaxis medications."

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**4 NEW SECTION. Section 2. Emergency use of stock albuterol in school setting -- limit on**

5     **liability -- reporting.** A public or nonpublic school may maintain a supply of stock albuterol, including single-  
6     use disposable holding chambers if necessary, to be administered by a school nurse or other authorized  
7     personnel to a student or nonstudent as needed for respiratory distress. A school that intends to obtain an order  
8     for emergency use of stock albuterol in a school setting or at related activities shall adhere to the following  
9     requirements:

10 (1) A school that keeps stock albuterol on site shall develop a protocol related to the training of  
11 school employees, the maintenance and location of the stock albuterol, and the immediate and long-term  
12 followup to the administration of the medication, including determining when to make a 9-1-1 emergency call.

13 (2) The stock albuterol must be prescribed by a physician, advanced practice registered nurse, or  
14 physician assistant. The school must be designated as the patient and each prescription for stock albuterol  
15 must be filled by a licensed pharmacy.

16 (3) A licensed pharmacist may dispense stock albuterol medication and spacers to schools in  
17 accordance with this section.

18 (4) A school may enter into an agreement with a manufacturer of bronchodilators or spacers, a  
19 third-party supplier of bronchodilator or spacers, or a health care office to obtain bronchodilators or spacers at  
20 no charge, at market price, or at a reduced price. A school district may accept gifts, grants, or donations to  
21 purchase bronchodilators or spacers for emergency use.

22 (5) Authorized personnel shall complete an annual asthma education program approved by the  
23 department of public health and human services. The training must include causes of respiratory distress,  
24 recognition of signs and symptoms of respiratory distress, indications for the administration of albuterol,  
25 administration techniques, and the need for immediate access to a certified emergency responder.

26 (6) The stock albuterol must be kept in a secure and easily accessible location.

27 (7) A school nurse or other authorized personnel may, in good faith, administer the stock albuterol  
28 to any student or nonstudent who is experiencing respiratory distress based on the protocol developed by the

1 school.

2 (8) If a school keeps stock albuterol on site that has been prescribed to the school, the school shall  
3 inform parents or guardians about the potential use of stock albuterol in a respiratory distress emergency. The  
4 school shall make the protocol available on request.

5 (9) In accordance with the provisions of 27-1-714, a school district or nonpublic school and its  
6 employees and agents are not liable as a result of an injury arising from the administration of stock albuterol to  
7 a student or nonstudent unless an act or omission is a result of gross negligence, willful or wanton misconduct,  
8 or an intentional tort.

9 (10) This section may not be interpreted to relieve a student's parent or guardian of providing a  
10 student's medication or create an expectation that a school will have stock albuterol available.

11 (11) A school that voluntarily possesses and makes available stock albuterol pursuant to this  
12 section shall:

13 (a) document the use of stock albuterol following an event and report this use to the department of  
14 public health and human services within 3 days. The reporting format and required details must be determined  
15 by the department.

16 (b) submit an annual report to the department of public health and human services summarizing  
17 the use of stock albuterol during each school year. The reporting format and required details must be  
18 determined by the department.

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20 **NEW SECTION. Section 3. Codification instruction.** [Section 2] is intended to be codified as an  
21 integral part of Title 20, chapter 5, part 4, and the provisions of Title 20, chapter 5, part 4, apply to [section 2].

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23 **NEW SECTION. Section 4. Effective date.** [This act] is effective July 1, 2025.

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