

Senate Bill 126

By: Senators Hufstetler of the 52nd and Orrock of the 36th

**AS PASSED**

**A BILL TO BE ENTITLED**

**AN ACT**

1 To amend Chapter 4 of Title 26 of the Official Code of Georgia Annotated, relating to  
 2 pharmacists and pharmacies, so as to authorize certain health care practitioners to prescribe  
 3 auto-injectable epinephrine to an authorized entity for emergency purposes; to authorize  
 4 licensed health practitioners to prescribe levalbuterol sulfate for schools; to authorize  
 5 pharmacists to fill such prescriptions; to amend Chapter 1 of Title 31 of the Official Code of  
 6 Georgia Annotated, relating to health generally, so as to provide for authorized entities to  
 7 acquire and stock a supply of auto-injectable epinephrine; to authorize certain individuals to  
 8 administer auto-injectable epinephrine under certain circumstances; to provide for immunity;  
 9 to provide for reports; to amend Part 3 of Article 16 of Chapter 2 of Title 20 of the Official  
 10 Code of Georgia Annotated, relating to student health in elementary and secondary  
 11 education, so as to authorize public and private schools to stock a supply of levalbuterol  
 12 sulfate; to provide for definitions; to provide for requirements and reporting; to provide for  
 13 arrangements with manufacturers; to provide for rules and regulations; to provide for related  
 14 matters; to repeal conflicting laws; and for other purposes.

15 **BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:**

16 **SECTION 1.**

17 Chapter 4 of Title 26 of the Official Code of Georgia Annotated, relating to pharmacists and  
 18 pharmacies, is amended by revising Code Section 26-4-116.1, relating to licensed health  
 19 practitioners authorized to prescribe auto-injectable epinephrine for schools and pharmacists  
 20 authorized to fill prescriptions, as follows:

21 "26-4-116.1.

22 (a) A physician licensed to practice medicine in this state, an advanced practice registered  
 23 nurse acting pursuant to the authority of Code Section 43-34-25, and a physician assistant  
 24 acting pursuant to the authority of subsection (e.1) of Code Section 43-34-103 may  
 25 prescribe auto-injectable epinephrine in the name of a public or private school for use in

26 accordance with Code Section 20-2-776.2 and in accordance with protocol specified by  
27 such physician, advanced practice registered nurse, or physician assistant.

28 ~~(b) A pharmacist may dispense auto-injectable epinephrine pursuant to a prescription~~  
29 ~~issued in accordance with subsection (a) of this Code section~~ A physician licensed to  
30 practice medicine in this state, an advanced practice registered nurse acting pursuant to the  
31 authority of Code Section 43-34-25, and a physician assistant acting pursuant to the  
32 authority of subsection (e.1) of Code Section 43-34-103 may prescribe auto-injectable  
33 epinephrine in the name of an authorized entity in accordance with Code Section 31-1-14.  
34 ~~(c) A pharmacist may dispense auto-injectable epinephrine pursuant to a prescription~~  
35 ~~issued in accordance with subsection (a) or (b) of this Code section."~~

### 36 SECTION 1A.

37 Said chapter is further amended by adding a new Code section to read as follows:

38 "26-4-116.3.

39 (a) A physician licensed to practice medicine in this state, an advanced practice registered  
40 nurse acting pursuant to the authority of Code Section 43-34-25, and a physician assistant  
41 acting pursuant to the authority of subsection (e.1) of Code Section 43-34-103 may  
42 prescribe levalbuterol sulfate or albuterol sulfate in the name of a public or private school  
43 for use in accordance with Code Section 20-2-776.3.

44 (b) A pharmacist may dispense levalbuterol sulfate or albuterol sulfate pursuant to a  
45 prescription issued in accordance with subsection (a) of this Code section."

### 46 SECTION 2.

47 Chapter 1 of Title 31 of the Official Code of Georgia Annotated, relating to health generally,  
48 is amended by adding a new Code section to read as follows:

49 "31-1-14.

50 (a) As used in this Code section, the term:

51 (1) 'Authorized entity' means any entity or organization, other than a school subject to  
52 Code Section 20-2-776.2, in connection with or at which allergens capable of causing  
53 anaphylaxis may be present, as identified by the department. The department shall,  
54 through rule or other guidance, identify the types of entities and organizations that are  
55 considered authorized entities no later than January 1, 2016, and shall review and update  
56 such rule or guidance at least annually thereafter. For purposes of illustration only, such  
57 entities may include, but are not limited to, restaurants, recreation camps, youth sports  
58 leagues, theme parks and resorts, and sports arenas.

59 (2) 'Auto-injectable epinephrine' means a single-use device used for the automatic  
60 injection of a premeasured dose of epinephrine into the human body.

61 (3) 'Health care practitioner' means a physician licensed to practice medicine in this state,  
62 an advanced practice registered nurse acting pursuant to the authority of Code Section  
63 43-34-25, and a physician assistant acting pursuant to the authority of subsection (e.1) of  
64 Code Section 43-34-103.

65 (b) An authorized entity may acquire and stock a supply of auto-injectable epinephrine  
66 pursuant to a prescription issued in accordance with Code Section 26-4-116.1. Such  
67 auto-injectable epinephrine shall be stored in a location readily accessible in an emergency  
68 and in accordance with the auto-injectable epinephrine's instructions for use and any  
69 additional requirements that may be established by the department. An authorized entity  
70 shall designate employees or agents who have completed the training required by  
71 subsection (d) of this Code section to be responsible for the storage, maintenance, control,  
72 and general oversight of auto-injectable epinephrine acquired by the authorized entity.

73 (c) An employee or agent of an authorized entity, or any other individual, who has  
74 completed the training required by subsection (d) of this Code section may use  
75 auto-injectable epinephrine prescribed pursuant to Code Section 26-4-116.1 to:

76 (1) Provide auto-injectable epinephrine to any individual who the employee, agent, or  
77 other individual believes in good faith is experiencing anaphylaxis, or to the parent,  
78 guardian, or caregiver of such individual, for immediate administration, regardless of  
79 whether the individual has a prescription for auto-injectable epinephrine or has previously  
80 been diagnosed with an allergy; and

81 (2) Administer auto-injectable epinephrine to any individual who the employee, agent,  
82 or other individual believes in good faith is experiencing anaphylaxis, regardless of  
83 whether the individual has a prescription for auto-injectable epinephrine or has previously  
84 been diagnosed with an allergy.

85 (d) An employee, agent, or other individual described in subsection (b) or (c) of this Code  
86 section shall complete an anaphylaxis training program and repeat such training at least  
87 every two years following completion of the initial anaphylaxis training program. Such  
88 training shall be conducted by a nationally recognized organization experienced in training  
89 laypersons in emergency health treatment or an entity or individual approved by the  
90 department. Training may be conducted online or in person and, at a minimum, shall  
91 cover:

92 (1) How to recognize signs and symptoms of severe allergic reactions, including  
93 anaphylaxis;

94 (2) Standards and procedures for the storage and administration of auto-injectable  
95 epinephrine; and

96 (3) Emergency follow-up procedures.

97 (e) An authorized entity that possesses and makes available auto-injectable epinephrine  
 98 and its employees, agents, and other individuals; a health care practitioner that prescribes  
 99 or dispenses auto-injectable epinephrine to an authorized entity; a pharmacist or health care  
 100 practitioner that dispenses auto-injectable epinephrine to an authorized entity; and an  
 101 individual or entity that conducts the training described in subsection (d) of this Code  
 102 section shall not be liable for any injuries or related damages that result from any act or  
 103 omission taken pursuant to this Code section; provided, however, that this immunity does  
 104 not apply to acts or omissions constituting willful or wanton misconduct. The  
 105 administration of auto-injectable epinephrine in accordance with this Code section is not  
 106 the practice of medicine or any other profession that otherwise requires licensure. This  
 107 Code section does not eliminate, limit, or reduce any other immunity or defense that may  
 108 be available under state law, including that provided under Code Section 51-1-29. An  
 109 entity located in this state shall not be liable for any injuries or related damages that result  
 110 from the provision or administration of auto-injectable epinephrine outside of this state if  
 111 the entity:

112 (1) Would not have been liable for such injuries or related damages had the provision or  
 113 administration occurred within this state; or

114 (2) Is not liable for such injuries or related damages under the law of the state in which  
 115 such provision or administration occurred.

116 (f) An authorized entity that possesses and makes available auto-injectable epinephrine  
 117 shall submit to the department, on a form developed by the department, a report including  
 118 each incident on the authorized entity's premises that involves the administration of  
 119 auto-injectable epinephrine pursuant to subsection (c) of this Code section and any other  
 120 information deemed relevant by the department. The department shall annually publish a  
 121 report that summarizes and analyzes all reports submitted to it under this subsection.

122 (g) The department shall establish requirements regarding the storage, maintenance,  
 123 control, and oversight of the auto-injectable epinephrine, including but not limited to any  
 124 temperature limitations and expiration of such auto-injectable epinephrine."

## 125 **SECTION 2A.**

126 Part 3 of Article 16 of Chapter 2 of Title 20 of the Official Code of Georgia Annotated,  
 127 relating to student health in elementary and secondary education, is amended by adding a  
 128 new Code section to read as follows:

129 "20-2-776.3.

130 (a) As used in this Code section, the term:

131 (1) 'Levalbuterol sulfate' means an orally inhaled medication that contains a premeasured  
 132 single dose of levalbuterol sulfate or albuterol sulfate delivered by a nebulizer or

133 compressor device or by a pressurized metered dose inhaler used to treat perceived  
134 respiratory distress including, but not limited to, wheezing, shortness of breath, and  
135 difficulty breathing.

136 (2) 'Licensed practitioner' means a physician licensed to practice medicine in this state,  
137 an advanced practice registered nurse acting pursuant to the authority of Code Section  
138 43-34-25, and a physician assistant acting pursuant to the authority of subsection (e.1) of  
139 Code Section 43-34-103.

140 (b) A public or private school in this state may acquire and stock a supply of levalbuterol  
141 sulfate pursuant to a prescription issued in accordance with Code Section 26-4-116.3. A  
142 public or private school may designate an employee or agent trained in the possession and  
143 administration of levalbuterol sulfate to be responsible for the storage, maintenance, and  
144 distribution of the levalbuterol sulfate stocked by the school.

145 (c) Any school employee or agent of a public or private school who has completed training  
146 or received information pursuant to subsection (c) of Code Section 20-2-776.4 in  
147 recognizing the symptoms of respiratory distress and the correct method of administering  
148 the levalbuterol sulfate may:

149 (1) Provide levalbuterol sulfate to any student such employee or agent believes in good  
150 faith is experiencing a perceived respiratory distress for immediate self-administration;  
151 or

152 (2) Administer levalbuterol sulfate to any student such employee or agent believes in  
153 good faith is experiencing a perceived respiratory distress, regardless of whether the  
154 student has a prescription for levalbuterol sulfate.

155 (d) A public or private school may enter into arrangements with manufacturers of  
156 approved levalbuterol sulfate or third-party suppliers of levalbuterol sulfate to obtain the  
157 products free of charge or at fair market or reduced prices.

158 (e) No later than July 1, 2015, the State Board of Education, in consultation with the  
159 Department of Public Health, shall adopt regulations as necessary to implement the  
160 provisions of this Code section.

161 (f)(1) Any school personnel who in good faith administers or chooses not to administer  
162 levalbuterol sulfate to a student pursuant to this Code section shall be immune from civil  
163 liability for any act or omission to act related to the administration of levalbuterol sulfate,  
164 except that such immunity shall not apply to an act of willful or wanton misconduct.

165 (2) Any licensed practitioner who prescribes levalbuterol sulfate pursuant to Code  
166 Section 26-4-116.3 for use by a school in accordance with this Code section shall be  
167 immune from civil liability for any act or omission to act related to the administration of  
168 such levalbuterol sulfate, except that such immunity shall not apply to an act of willful  
169 or wanton misconduct.

170 20-2-776.4.

171 (a) As used in this Code section, the term 'levalbuterol sulfate' means an orally inhaled  
172 medication that contains a premeasured single dose of levalbuterol sulfate or albuterol  
173 sulfate delivered by a nebulizer or compressor device or by a pressurized metered dose  
174 inhaler used to treat perceived respiratory distress including, but not limited to, wheezing,  
175 shortness of breath, and difficulty breathing.

176 (b) Each local board of education shall adopt a policy authorizing school personnel to  
177 administer levalbuterol sulfate, if available, to a student upon the occurrence of perceived  
178 respiratory distress by the student, whether or not such student has a prescription for  
179 levalbuterol sulfate.

180 (c) Each local board of education shall provide information to school personnel on how  
181 to recognize the symptoms of respiratory distress and the correct method of administering  
182 the levalbuterol sulfate.

183 (d) Any school personnel who in good faith administers or chooses not to administer  
184 levalbuterol sulfate to a student pursuant to this Code section shall be immune from civil  
185 liability for any act or omission to act related to the administration of levalbuterol sulfate,  
186 except that such immunity shall not apply to an act of willful or wanton misconduct."

187 **SECTION 3.**

188 All laws and parts of laws in conflict with this Act are repealed.