

**CONFERENCE COMMITTEE REPORT BRIEF  
HOUSE BILL NO. 2547**

As Agreed to April 2, 2024

**Brief\***

HB 2547 would amend the state Uniform Controlled Substances Act (Act) and amend the law regarding the stock, maintenance, and administration of emergency medication kits in schools, including epinephrine and albuterol.

The bill would amend the liability protections for any person who renders emergency care or treatment at a school, school-sponsored event, or school property as well as provide a level of immunity from liability for a pharmacist, physician, or a mid-level practitioner who distributes or prescribes emergency medications to a school or provides training on the administration of the emergency medicine for school personnel, and for the school personnel who administer the medications under specific circumstances.

The bill would also make technical changes.

***Uniform Controlled Substances Act***

***Schedule I***

The bill would add 35 new substances to the Act, including 23 fentanyl-related controlled substances.

***Schedule II***

The bill would add four additional substances to be excluded from control as Schedule II opioids: thebaine-derived butorphanol, naldemedine, naloxegol, and samidorphen.

***Schedule IV***

The bill would add daridorexant (brand name Quviviq), a medication used to treat insomnia, and serdexmethylphenidate, an active ingredient in medication used to treat attention-

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\*Conference committee report briefs are prepared by the Legislative Research Department and do not express legislative intent. No summary is prepared when the report is an agreement to disagree. Conference committee report briefs may be accessed on the Internet at <http://www.kslegislature.org/kldr>

deficit/hyperactivity disorder (ADHD) to the list of Schedule IV substances. The bill would remove fenfluramine (brand name Fintelpla), a U.S. Food and Drug Administration (FDA)-approved medication used to treat seizures, to mirror the federal descheduling of the drug.

### *Schedule V*

The bill would add ganaxolone (brand name Ztalmy), a medication used to treat a particular type of seizure, to the list of Schedule V substances.

## ***Emergency Medication Kits***

### *Definitions*

The bill would amend law regarding emergency medication kits to add definitions for terms used throughout the bill. Key terms would include the following:

- “Albuterol” would mean a short-acting beta-2 agonist-inhaled medication, otherwise known as a bronchodilator, that is prescribed by a physician or mid-level practitioner for the treatment of respiratory distress;
- “Designated school personnel” would mean an employee, officer, agent, or volunteer of a school who has completed training, documented by the school nurse, a physician, or a mid-level practitioner, to administer emergency medication on a voluntary basis outside of the scope of employment;
- “Emergency medication” would mean epinephrine or albuterol;
- “Epinephrine” would mean a medication prescribed by a physician or mid-level practitioner for the emergency treatment of anaphylaxis prior to the arrival of emergency medical system responders;
- “Mid-level practitioner” would mean a certified nurse-midwife engaging in the independent practice of midwifery under the Independent Practice of Midwifery Act, an advanced practice registered nurse issued a license and who has authority to prescribe drugs, or a physician assistant licensed pursuant to the Physician Assistant Licensure Act who has authority to prescribe drugs pursuant to a written agreement with a supervising physician;
- “Pharmacist” would mean any natural person licensed under the Pharmacy Act to practice pharmacy;
- “Physician” would mean any person licensed by the State Board of Healing Arts to practice medicine and surgery;
- “Respiratory distress” would mean impaired ventilation of the respiratory system or impaired oxygenation of the blood;

- “School” would mean any school operated by a school district organized under the laws of this state or any accredited nonpublic school that provides education to elementary or secondary students;
- “School nurse” would mean a registered nurse licensed by the Board of Nursing to practice nursing in Kansas or a licensed practical nurse working under a registered nurse who is employed by a school to perform nursing services in a school setting; and
- “Stock supply” would mean an appropriate quantity of emergency medication as recommended by a physician or mid-level practitioner.

#### *Stock Supply of Emergency Medications in a School*

The bill would allow schools to maintain a stock supply of emergency medications with a prescription from a physician or mid-level practitioner in the name of the school. The bill would require a physician or mid-level practitioner to review a school’s policies and procedures regarding the use, storage, and maintenance of the stock supply prior to prescribing the emergency medication.

#### *Type, Doses, and Administration in Emergency Situation*

The bill would define the type and doses of epinephrine that may be in the stock supply as one or more standard-dose or pediatric-dose epinephrine auto-injectors. The bill would identify that a school nurse or designated school personnel may administer the epinephrine in an emergency situation to any individual who displays the signs and symptoms of anaphylaxis at school, on school property, or at a school-sponsored event. The epinephrine would only be permitted to be administered by the school nurse or designated school personnel if they reasonably believe that an individual is exhibiting the signs and symptoms of an anaphylactic reaction.

The bill would define the type and doses of albuterol that could be in the stock supply as one or more albuterol metered-dose inhalers, one or more doses of albuterol solution, and one or more spacers or nebulizers. The bill would identify that a school nurse or designated school personnel may administer the albuterol in an emergency situation to any individual who displays the signs and symptoms of respiratory distress at school, on school property, or at a school-sponsored event. The albuterol would only be permitted to be administered by the school nurse or designated school personnel if they reasonably believe that an individual is exhibiting the signs and symptoms of respiratory distress.

#### *Policy and Procedures*

The bill would require that any school that maintains a stock supply of emergency medication to establish school policies and procedures on the following:

- Storage of the emergency medication, which would include storage in a safe location that is readily accessible to the school nurse or designated school personnel and meets manufacturer’s temperature recommendations;

- Periodic monitoring of the inventory and expiration dates of the emergency medication;
- Administration of emergency medication by designated school personnel; and
- Training requirements for designated school personnel that would be conducted at least annually. The training would include, at minimum:
  - Recognition of the symptoms of anaphylaxis and respiratory distress;
  - Administration of emergency medications;
  - Calling for emergency medical system responders;
  - Monitoring the condition of the individual after administration of emergency medication;
  - Notification of the parent, guardian, or next of kin; and
  - Safe disposal and sanitation of used equipment.

The bill would also require the school to publish information related to the school's policies and procedures regarding emergency medication and maintain training records of designated school personnel.

The bill would also authorize a school to accept monetary gifts, grants, and donations as well as donations of emergency medications authorized under the bill from a manufacturer or wholesaler.

### *Pharmacists*

The bill would allow a pharmacist to distribute a stock supply of emergency medications, including standard-dose and pediatric-dose epinephrine auto-injectors and albuterol metered-dose inhalers, albuterol solution, and spacers to a school pursuant to a prescription from a physician or mid-level practitioner in the name of the school.

The bill would provide for a pharmacist that distributes a stock supply of emergency medication to not be liable for civil damages resulting from the administration of the emergency medication.

[*Note:* Current law provides for the State Board of Pharmacy to adopt rules and regulations to provide for the maintenance of epinephrine kits maintained in accredited schools.]

### *Administration of Emergency Medication*

Current law provides that administration of epinephrine in emergency situations to a student or member of school staff when certain conditions are met is not construed to be included in the practice of the healing arts. The bill would extend that exception to add the administration of albuterol in emergency situations and apply it to any individual receiving the emergency medication when certain conditions are met, including if:

- The person administering the epinephrine reasonably believes the individual is exhibiting the signs and symptoms of an anaphylactic reaction;

- The person administering the albuterol reasonably believes the individual is exhibiting the signs and symptoms of respiratory distress;
- A physician or mid-level practitioner, after reviewing the school's policies and procedures, has authorized, in writing, the school to maintain a stock supply of emergency medication; and
- The emergency medication is administered at school on school property or at a school-sponsored event.

The bill would amend the current liability protections for any person who in good faith renders emergency care or treatment, without compensation, to an individual at a school, on school property, or at a school-sponsored event, and add protection for any school that employs or contracts such person.

The bill would limit the liability of a physician or mid-level practitioner who writes a prescription for the stock supply of emergency medication or provides training to school personnel on the administration of emergency medication in that the medical professional would not be liable for civil damages resulting from the administration of the emergency medication.

### **Conference Committee Action**

The Conference Committee agreed to the provisions of HB 2547, as amended by the Senate Committee on Public Health and Welfare, and agreed to an amendment restoring language related to civil liability protections for non-medical personnel who administer the emergency medication. The Conference Committee also agreed to add the provisions of HB 2596, as passed by the House, related to amendments to the Uniform Controlled Substances Act.

### **Background**

The Conference Committee added the contents of HB 2596, as passed by the House, to HB 2547, as amended by the Senate Committee on Public Health and Welfare and amended by the Conference Committee.

[*Note:* The federal and state controlled substances acts provide for a five-schedule classification system of substances. These classifications are based on a substance's accepted medical use, the potential for abuse or addiction, and harmfulness. Schedule I contains the substances with the most potential for abuse, harm, and no recognized medical uses, while Schedule V provides the least dangerous substances with known medical uses.]

### ***HB 2596 (Amendments to the Uniform Controlled Substances Act)***

The bill was introduced in the House Committee on Health and Human Services at the request of Representative Clifford on behalf of the State Board of Pharmacy (Board).

### *House Committee on Health and Human Services*

In the House Committee hearing on January 29, 2024, a representative of the Board provided **proponent** testimony, stating that the Board works with the Kansas Bureau of Investigation (KBI) to review changes made by the U.S. Drug Enforcement Administration to the federal Controlled Substances Act. The representative also stated the bill would make necessary changes to the state Uniform Controlled Substances Act that reflect the federal updates.

Written-only proponent testimony was provided by a representative of the KBI.

A private citizen provided neutral testimony regarding the inclusion of cannabis and marijuana-related drugs as controlled substances.

No other testimony was provided.

### *Senate Committee on Public Health and Welfare*

In the Senate Committee hearing on March 5, 2024, a representative of the Board provided **proponent** testimony, stating the bill would make necessary changes to the state Uniform Controlled Substances Act that reflect federal updates. The representative also noted the Board worked closely with the KBI regarding the changes.

Written-only proponent testimony was provided by a representative of the KBI.

A private citizen provided neutral testimony regarding the scheduling of cannabis and marijuana-related drugs as controlled substances.

No other testimony was provided.

The Senate Committee amended the bill to add tianeptine, its optical isomers, salts, and salts of isomers as a Schedule I controlled substance.

[*Note:* The Conference Committee did not retain this amendment.]

### ***HB 2547 (Emergency Medication Kits)***

The bill was introduced in the House Committee on Health and Human Services at the request of Representative Eplee on behalf of the Kansas School Nurses Organization.

### *House Committee on Health and Human Services*

In the House Committee hearing on January 30, 2024, representatives of the Board and the Kansas School Nurses Association provided **proponent** testimony. The proponents stated generally the bill would remove the barriers regarding the availability of a stock supply of epinephrine and albuterol in schools and permit the administration of the medication in an emergency or time-sensitive situation.

Written-only proponent testimony was provided by representatives of the Board of Nursing, Kansas Action for Children, Kansas Association of School Boards, Kansas Chapter of the American Academy of Pediatrics, and four private citizens.

No other testimony was provided.

#### *Senate Committee on Public Health and Welfare*

In the Senate Committee hearing on March 12, 2024, **proponent** testimony was provided by representatives of the Board, Kansas Association of School Boards, and Kansas School Nurses Organization. The proponents generally stated the bill would remove barriers regarding the availability of a stock supply of epinephrine and albuterol in schools and permit the administration of medication in an emergency or time-sensitive situation.

Written-only proponent testimony was provided by representatives of the American Lung Association of Kansas, Board of Nursing, Kansas Action for Children, Kansas Chapter of the American Academy of Pediatrics, and Kansas Public Health Association, and a private citizen.

No other testimony was provided.

The Senate Committee amended the bill to clarify that training over the use of emergency medication must be provided by a school nurse, physician, or mid-level practitioner. The Senate Committee also amended the bill to remove the civil liability waiver for non-medical personnel who administer the emergency medication.

[*Note:* The amendment regarding training was retained, and the amendment regarding civil liability waivers was not retained by the Conference Committee.]

#### **Fiscal Information**

##### ***HB 2596 (Amendments to the Uniform Controlled Substances Act)***

According to the fiscal note prepared by the Division of the Budget on HB 2596, as introduced, the Board indicates enactment of the bill would have no fiscal effect on the agency. The Board notes that because pharmacies are required to follow federal law as well as state law, any changes the Board were to make as a result of enactment of the bill would have no effect on the practice of pharmacy because the stricter federal law is already been in place.

##### ***HB 2547 (Emergency Medication Kits)***

According to the fiscal note prepared by the Division of the Budget on HB 2547, as introduced, the State Board of Healing Arts indicates that any resulting actionable complaints could be managed with its existing budget authority. The Board of Nursing indicates the agency would communicate information to its licensees if the bill becomes law; however, enactment of the bill would have no fiscal effect for the agency outside of normal administrative functions. The Board indicates that enactment of the bill would not have a fiscal effect on the agency. The State Department of Education (Department) indicates the bill would have no fiscal effect on state aid

to school districts. The Kansas Association of School Boards and the Department noted the cost of any emergency medications would be borne by local school districts. The Department notes that a school would be able to accept monetary gifts, grants, and donations to implement provisions of the bill, as well as being able to accept medication gifts from a manufacturer or wholesaler.

Uniform Controlled Substances Act; controlled substances; drugs; U.S. Drug Enforcement Administration; U.S. Federal Drug Administration; emergency medication kits; albuterol; epinephrine

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