



# Implementing Unassigned Medication for Respiratory Distress Policies in Texas Schools

A guide for school health services, administrators, and community partners developed in partnership with the Texas Asthma Control Program



**TEXAS**  
Health and Human  
Services

**Texas Department of State  
Health Services**

*This guide was supported with federal funding awarded through a partnership between the Texas Department of State Health Services (DSHS) and the University of North Texas Health Science Center. The contents are those of the author(s) and do not necessarily represent the official views of, nor an endorsement, by Texas DSHS, CDC/HHS, or the U.S. Government.*

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## Introduction

### Unassigned Medication for Respiratory Distress at School

Respiratory distress can happen suddenly. It can cause trouble with breathing, wheezing, and chest tightness. These episodes can be scary and make it difficult for students to participate at school.<sup>1</sup> In severe cases, it may require emergency care or hospitalization and can even be life-threatening.<sup>2</sup>

Asthma is a common cause of respiratory distress in school-aged children. Other medical emergencies such as severe allergic response (anaphylaxis) can also cause respiratory distress.<sup>3</sup>

Quick-relief medications like albuterol and levalbuterol can quickly ease mild to moderate symptoms.<sup>4,5</sup> The benefits last for 4-6 hours. In severe cases, these medications can help save a life while waiting for emergency help. These medications are easy to use and have few side effects.<sup>6</sup>

Experts recommend that students with asthma always have access to quick-relief medication.<sup>7</sup> Keeping unassigned medication at school can improve student safety, reduce absences, and help students stay engaged in learning.<sup>8</sup> During the 2023-2024 school year, there were 1,755 reported uses of unassigned medication for respiratory distress in Texas schools. Of these, nearly 64 percent (1,119) returned to class.<sup>9</sup>

Unassigned medication can relieve symptoms of respiratory distress, but it does not cure the problem. Symptoms can return at any time and it is critical that people who use unassigned medication get medical care to identify and treat their condition properly.<sup>10</sup>

### What is Asthma?

Asthma is one of the most common long-term illnesses in children. About 7.5 percent of children in Texas have asthma.<sup>11</sup> Asthma makes it harder to breathe by causing three changes in the airways:

- The muscles around the airway tighten.
- The inside of the airway swells.
- The airway fills with too much mucus.

There is no cure for asthma, but it can be managed by:

- Proper medical care from a healthcare provider.
- Reducing exposure to asthma triggers.
- Taking medications as directed.
- Following an asthma action plan.<sup>12</sup>

## Poorly Controlled Asthma and Its Impact on Schools and Students

Poorly controlled asthma can affect a student's health and education including:

- Reduced readiness to learn.
- Disrupted sleep.
- Increased early dismissals.
- Increased potentially preventable 911 calls, emergency department visits, hospitalizations, and death.
- Increased school absences and related academic risk.

Additionally, student absences related to asthma can lead to reduced school funding and increased parental/guardian work absences.<sup>13</sup>

Managing asthma can be hard for all children and families. Challenges may include difficulty getting health care, paying for medications, and avoiding asthma triggers. School staff and healthcare providers can connect students and student's families to community resources to address challenges of managing asthma.

Unassigned medication for respiratory distress can be part of a coordinated school health program to keep students healthy and safe. This document provides school and school district staff the information needed to adopt and implement an unassigned medication for respiratory distress policy in their schools.

Additionally, the [Texas Department of State Health Services \(DSHS\) School Health Program website](#) has information and resources for school health evidence-based programs, practices and policies.



## An Overview of Steps to Implement Unassigned Medication for Respiratory Distress

### 10 Steps to Plan an Unassigned Medication for Respiratory Distress Program

1. [Build support](#) from school leaders and the community.
2. [Assess](#) school or school district's needs and resources.
3. [Establish Standing Delegation Orders](#) and guidelines.
4. [Adopt school policy](#) and get approval from administrators and the school board.
5. [Plan documentation](#) of medication use.
6. [Obtain medication](#) and needed supplies.
7. [Plan medication management](#) including storage, tracking, restocking, and disposal.
8. [Train and authorize staff or volunteers](#) and keep training records.
9. [Inform families](#) before the policy starts, when a student enrolls, and at the beginning of each school year.
10. [Regularly evaluate](#) the program.

### Texas Laws and Rules for Unassigned Medication for Respiratory Distress

The following sections of [Texas Education Code \(TEC\), Chapter 38, Subchapter E](#), govern the use of unassigned medication for respiratory distress in Texas. These sections relating to medications for respiratory distress were amended in May 2023.

- [Section 38.208 – Maintenance and Administration of Epinephrine Auto-Injectors and Medication for Respiratory Distress](#)
- [Section 38.2091 – Report on Administering Medication for Respiratory Distress](#)
- [Section 38.210 – Training](#)
- [Section 38.211 – Prescription of Epinephrine Auto-Injectors and Medication for Respiratory Distress](#)
- [Section 38.212 – Notice to Parents](#)
- [Section 38.213 – Gifts, Grants, and Donations](#)
- [Section 38.214 – Rules](#)
- [Section 38.215 – Immunity from Liability](#)

[25 Texas Administrative Code \(TAC\), Chapter 40, Subchapter D](#) was amended on February 19, 2025, and provides updated rules for unassigned medications for respiratory distress.



## Rules

- [Section 40.41 - Purpose](#)
- [Section 40.42 - Definitions](#)
- [Section 40.43 - Applicability](#)
- [Section 40.44 - Voluntary Unassigned Medication for Respiratory Distress Policies](#)
- [Section 40.45 - Prescription, Administration, and Disposal of Unassigned Medications for Respiratory Distress](#)
- [Section 40.46 - Training](#)
- [Section 40.47 - Report on Administering Unassigned Medication for Respiratory Distress](#)
- [Section 40.48 - Notice to Parents Regarding Unassigned Medication for Respiratory Distress Policies in Schools](#)
- [Section 40.49 - Immunity from Liability](#)

Schools and/or school districts that established a policy on unassigned albuterol or respiratory medication prior to February 19, 2025, should ensure their school policy is updated and aligns with the TEC's amendment in May 2023 and TAC's last amendment in February 2025.

**Note:** [TEC, Chapter 38, Subchapter E](#), also addresses epinephrine auto-injectors. Sections of this subchapter regarding epinephrine auto-injectors were amended by the 89th Texas Legislature (May 2025). Maintenance and administration of epinephrine auto-injectors are not reflected or addressed in this guide.

The next section explains each step in more detail including tips from national organizations and current programs. Sample forms, resources, and tools are linked in each section and in [appendices](#). Resources should be adjusted to fit the needs of a school or school district.



## Preparing to Implement Unassigned Medication for Respiratory Distress

### Step 1. Build Support

The goal of unassigned medication is for students to be safe, healthy, and ready to learn. Identify community leaders and groups that share the same goal to help build support for adopting and implementing unassigned medication policy in schools.

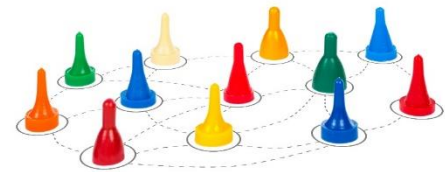
**Benefits:** Communicating the benefits of unassigned medication can build support, identify potential partners for funding medications and supplies, and build community connections.

Some specific benefits include<sup>14, 15, 16</sup>:

- Better school attendance.
- Increased school funding.
- Lower academic risk from school absences.
- Lower cost and burden of preventable 911 calls.
- Fewer work absences for parents and families.
- Stronger partnerships between schools, medical professionals, and health systems.

Partners to communicate benefits with:

- School staff.
- School district administration.
- Parents and guardians of students.
- Healthcare providers and clinics.
- Community leaders.



**Liability Concerns:** Understanding stakeholders' questions and concerns is important to build support. A common concern from school administrators, staff, and medical professionals is liability.

Texas offers liability protection under [TEC, Section 38.215](#), to those who adopt a policy under [TEC, Section 38.208](#). This includes people who in good faith, take or fail to take, any of the following actions:

- Prescribers who sign a standing delegation order.
- Pharmacists who dispense medications.
- People who train staff or volunteers.
- Staff or volunteers who administer medications.
- People who store or dispose of medications.
- People who create or follow policies, rules, or plans.

- Any other actions allowed under the law.

These protections allow people to make choices in the student's best interest without fear of legal action.

[Appendix 1](#) features common questions on building support and addressing liability concerns.



## Step 2. Assess Needs and Resources

A key step in planning is to review information about school campus and school district needs and resources.

**Assessment Planning:** Gather a team to help bring a range of views and expertise to the assessment and review. This group might include:

- School nurses.
- School Health Advisory Committees.
- Local medical professionals.
- Community groups and members that support student wellness.

The School Health Index can be used by schools and school districts to highlight policies and practices already in place for students as well as areas to improve. The assessment team can work together to complete the School Health Index which is found on the [Action for Healthy Kids website](#).

**Data Collection:** School health data is used to help assess needs and demonstrate the need for unassigned medication policy. Available data is dependent on a school or school district's student data collection system. Data to consider collecting includes:

- The number of students reported to have asthma.
- The portion of students with asthma who are authorized to have medication at school.
- The portion of students with asthma who have an Asthma Action Plan on file with the school.
- The number of 911 calls made for respiratory distress.
- The number of school absences due to asthma.

Other helpful information to collect includes:

- The size of the student body at the campus and district level.
- The size and layout of campuses.
- Emergency Medical Services (EMS) response times to campuses.
- Campus geography.

[The County Health Rankings and Roadmaps website](#) provides a variety of health data at the county level. This data was compiled to show a snapshot of how health is influenced by where people live, learn, work, and play. It can be used to assess resources in the community and other factors that impact asthma control. Within a county there may be wide variation in conditions that impact health.

**Community Assessment:** Schools and school districts should assess available healthcare and other factors that impact asthma control in the community.

- Access to healthcare
- Housing
- Transportation
- Families' socioeconomic status

**Resource Referral List:** A list of resources in the community needs to be created that can be shared with families. The list should include:

- Primary care providers
- Assistance for housing and transportation
- Medication assistance programs
- Asthma self-management education programs

The following sites can help identify local community resources and contacts:

- [Texas Local Public Health Organizations](#)
- [Federally Qualified Health Centers \(FQHCs\)](#)
- [Texas Department of Housing and Community Affairs Help for Texans](#)
- [Texas 211](#)
- [Findhelp.org](#)



### Step 3. Standing Delegation Orders

Authority to give unassigned medications for respiratory distress such as albuterol are given by standing delegation orders also called SDOs.

#### Standing Delegation Orders:

- Written by doctors or other approved prescribers in Texas.
- Give clear instructions to school staff and volunteers about when and how to give medication.
- Include instructions on follow-up and emergency care.

School nurses, staff, or volunteers can be trained and authorized to follow standing delegation orders and give unassigned medication in schools.

#### Finding a Prescriber for Medication and Standing Delegation Orders:

Texas schools must have a healthcare provider write a prescription for the unassigned medications for respiratory distress ([TEC, Section 38.211](#)). The same prescriber must write the standing delegation order for the administration of the unassigned medication.

Texas schools have successfully partnered with local doctors to write the prescriptions and standing delegation orders. Hospitals, health systems, local health departments, and private clinics can also assist schools and school districts in identifying doctors to partner with.

#### Examples of Standing Delegation Orders:

Sample standing delegation orders are available from national and state organizations. Schools and school districts should use these sample standing delegation orders as a guide and tailor them to meet local and state policies and [laws](#). Standing delegation orders resources include:

- The [Texas Asthma 411 Program's website](#) features a standing delegation order template that is designed to meet Texas-specific requirements.
- The [American Academy of Allergy, Asthma, and Immunology's Stock Inhaler Toolkit](#) features a sample standing delegation from Arizona (page 33).
- The [American Lung Association's \(ALA\) Stock Asthma Medication: Implementation Guidance for Schools Toolkit](#) features the ALA's sample standing delegation order (page 6).

[Appendix 2](#) has information on frequently asked questions from doctors about writing standing delegation orders for schools.

## Step 4. Establish Policy

Texas schools and school districts are not required to have a policy for unassigned medication for respiratory distress. If a school chooses to make unassigned medication for respiratory distress available, then they must have a policy aligned with [TEC, Chapter 38, Subchapter E](#). This allows a school and school district to have liability protection.

The Texas state legislature passed [legislation](#) in May 2019 allowing schools and school districts to provide unassigned asthma medication in schools. Legislation was [amended](#) in May 2023 to allow trained school personnel to administer unassigned respiratory medication. Previous legislation allowed school nurses to administer albuterol. Schools and school districts should ensure their policy and standing delegation orders reflect the most recent Texas [laws](#).

[25 TAC, Chapter 40, Subchapter D](#), provides rules and information that unassigned medication for respiratory distress policies must contain.

### Sample Policy:

[Appendix 3](#) include a sample policy developed with guidance and policy recommendations from the [Texas Association of School Boards](#) (TASB). TASB also provides [basic steps](#) to developing and adopting school district policy for school boards.

### Resources:

- [Medications for Respiratory Distress on School Campuses Webinar](#) (DSHS)
- [Basic Steps to Developing and Adopting School District Policy](#) (TASB)



## Step 5. Document, Follow-Up, and Report Medication Use

Schools have to report every use of unassigned albuterol or other respiratory medication. The student's parents/guardians and primary care provider also have to be informed.

**Reports:** The school must provide a report within 10 business days after the unassigned medication is given per [TEC, Section 38.2091](#).

Schools must use the [Texas School Health Program Reporting Form](#) on the DSHS website. After submitting the form to DSHS, a copy of this report should be sent to:

- School District, Charter holder if the school is an open-enrollment charter school or Governing body of the school if the school is a private school.
- Doctor who writes the standing delegation orders and prescriptions to the school.
- Student's primary healthcare provider.

**A copy of the report must also be saved in the student's permanent record.**

The information included in the DSHS online report meets the requirements listed in [TEC, Section 38.2091](#). A copy of the DSHS online report will be emailed to the person who submitted the report and can be sent to the entities listed above to meet reporting requirements.

In addition to the reporting requirements listed above, student's families and primary care providers must be informed if they received unassigned medication ([TEC, Section 38.208 and 25 TAC, Section 40.44](#)). Reporting and notifying families and primary care providers is critical and it can be challenging to do correctly and consistently.

### Informing Parents/Guardians:

A student's parents/guardians should be notified as soon as possible while continuing to prioritize care for the student. Notification should include that the student had breathing trouble at school, received unassigned medication, what the family needs to do to keep the student safe, and referral to the student's primary care providers for follow up care.

### Informing Primary Care Providers:

The unassigned medication for respiratory distress policy must include procedures for notifying the student's primary healthcare provider when unassigned medication for respiratory distress is administered.

### Students With an Asthma Diagnosis:

A student's primary care provider should be told the student received unassigned medication at school.

Connecting students with their doctor can help the doctor make informed medical decisions to manage a student's asthma.

#### Students Without an Asthma Diagnosis:

A primary care provider has to be informed if students without a reported asthma diagnosis received unassigned medication the same day the medication is given per [TEC, Section 38.208\(b-2\)](#). The primary care provider should complete a medical assessment to identify the cause of the respiratory distress and additional care and follow-up needed.

The referral to the primary care provider has to include at least the following ([25 TAC, Section 40.44](#)):

- The symptoms seen;
- The name and dosage of the medication given;
- Any care instructions that were provided; and
- Information about the purpose and use of an asthma action plan and medical authorization for schools, including a blank copy of the plan and authorization the provider completes and returns to the school.

The student's parents/guardians must also be informed regarding the referral.

#### Students Without a Primary Care Provider:

If a student who received unassigned medication for respiratory distress does not have a primary care provider, the school must give the family information to assist them in finding a provider per [TEC, Section 38.208\(b-3\)](#).

The resource referral list created during Step 2: Assess Needs and Resources (page 9) can be provided to families needing a primary care provider.

The University of North Texas Health Science Center's [Asthma 411 program](#) has developed reports for parents/guardians after a student has received unassigned respiratory medication at school as well as other resources. These tools are located on the program's [mandated follow-up and documentation](#) page.

- Unassigned respiratory medication report for students WITH an asthma diagnosis ([English](#) / [Spanish](#))
- Unassigned respiratory medication report for students WITHOUT an asthma diagnosis ([English](#) / [Spanish](#))
- Frequently Asked Questions (FAQ) for parents. ([English](#) / [Spanish](#))



## Step 6. Acquire Medication and Supplies

### Unassigned Medication Prescriptions:

A prescription for the unassigned medication from a healthcare provider is needed to obtain the medication.

- Schools and school districts must renew this prescription or obtain a new one annually ([25 TAC, Section 40.45](#)).
- The prescription can be written in the name of a school district, open-enrollment charter school or private school ([TEC, Section 38.211](#)).
- A pharmacist can dispense the medication to a school district, open-enrollment charter school, or private school without requiring the name or any other identifying information relating to the user ([TEC, Section 38.211](#)).

Schools in Texas have filled prescriptions for unassigned medication at local and national chain pharmacies.

### Purchasing Medication and Supplies:

Schools and school districts are responsible for acquiring unassigned medication and associated supplies. As of June 2025, there is not a free source for respiratory medications for schools in Texas.

Schools and school districts are permitted to receive donations for unassigned medication under [TEC, Section 38.213](#). Some groups that Texas schools have partnered with for support include:

- Nonprofit organizations.
- Hospitals and health systems.
- County health networks.
- Parent and teacher organizations.
- Other community partners interested in student health and safety.



Schools and school districts can also purchase lower cost medication and supplies by:

- Buying from manufacturers instead of retailers.
- Requesting discounts or buying at-cost from local pharmacy retailers.
- Using medication discount programs.
- Partnering with other entities to buy in bulk.

Data collected during Step 2: Assess Needs and Resources can be used to demonstrate the benefits of local organizations partnering with a school or school district to help implement unassigned medications.

### Quantity Needed of Medication and Supplies:

[TEC, Section 38.208\(c\)](#), and [25 TAC, Section 40.44](#), have requirements for the amount of medication and supplies on school campuses. Medication and supplies must allow for multiple students to be treated. Texas allows the use of either metered dose inhalers (MDIs) or nebulizers. This decision can be made between the school or school district and the prescribing physician. National recommendations encourage the use of MDIs and holding chambers.<sup>17</sup>

If MDIs are used there must be:

- At least one on each school campus; and
- Spacers or valved holding chambers that match student age and development.

If nebulizers are used there must be:

- At least five vials of nebulizer solution with equipment needed to give it.

Schools are allowed to stock additional medications and supplies based on review of campus needs. The prescriber who writes the standing delegation order and medication prescription may also give recommendations on the amount of medication and supplies needed.

## Step 7. Management of Medications and Supplies

Before implementing a policy for unassigned medication for respiratory distress, schools and school districts should have a clear plan to distribute, store, and dispose of medications and supplies. Texas law has requirements and guidance for managing unassigned medications and supplies ([25 TAC, Section 40.45](#)).

### Storage:

Medications must be stored following the manufacturer's guidelines and the local policy of a school or school district. It must be kept in a secure spot and easily accessible to authorized school personnel and volunteers.

### Inventory:

- Unassigned medication supply must be checked twice a year ([25 TAC, Section 40.44](#)).
- School campuses should keep enough medication and supplies on hand to meet requirements listed in Step 6: Acquire Medication and Supplies.
- **Tip:** Have a plan to restock medications and supplies. School districts in Texas have kept the required amount of medication at each school campus and extra stock in a district central office allowing for quick restock.

### Disposal:

- Empty or expired medications must be thrown away following manufacturer's guidelines and the local policy of a school or school district.
- The [National Association of Boards of Pharmacy website](#) has a list of approved disposal sites.
- Proper disposal of expired medications and used supplies is part of the required training for the staff and volunteers that administer the medication.



## Step 8. Train and Authorize Staff and Volunteers

Schools or school districts that use the unassigned medication policy must train staff and/or volunteers and authorize them to give the unassigned medication to those in respiratory distress.

### Training Requirements:

([TEC, Section 38.210](#), and [25 TAC, Section 40.46](#))

- At least one trained person must be on campus during regular school hours. This includes 30 minutes before the first bell until 30 minutes after the last bell ([25 TAC, Section 40.42](#)).
- Training must be given before the policy is implemented and repeated every year.
- Schools and school districts must keep a record of training and a list of trained staff and volunteers. These records have to be available on request.
- Training must include hands-on practice with unassigned medications. Other parts of the training may be online or on-site.
- Texas law also protects staff and/or volunteers' choice not to receive training or give medication. If a person does not wish to be trained and authorized, they must not be penalized ([TEC, Section 38.208](#)).

### Requirements for Training for School Staff and/or Volunteers:

[TEC, Section 38.210](#) and [25 TAC, Section 40.46](#) requires training on the following:

- School or school district policy on unassigned medication for respiratory distress.
- Standing delegation order.
- Recognizing signs and symptoms of respiratory distress.
- Giving medication for respiratory distress.
- What to do in an emergency if the patient does not improve.
- Cleaning, reusing and disposing of medication.
- Follow up with prescribing healthcare providers and the student's primary healthcare provider.
- Reporting protocol after giving the medication.
- Purpose and use of Asthma Action Plans.

### Training for Unassigned Respiratory Medications in Texas:

- [Unassigned Medication Training by UNTHSC](#). Training is designed for non-nursing school staff and volunteers and meets Texas training requirements listed above.

### Other Related Trainings:

- [SaferCare Texas: 2024-26 Asthma 411 in Action, What You Need to Know](#). Online training targeting school nurses on implementing a school asthma program using

the Asthma411 model. Training aligns with Texas law and provides free nursing continuing education credit.

- [Asthma Basics](#). Free online training from the American Lung Association.
- [Stock Asthma Medication: Implementation Guidance for Schools](#). Free national-based online training from the American Lung Association.
- [Stock Inhaler Toolkit](#). National-based toolkit from the American Academy of Allergy Asthma & Immunology on implementing stock inhalers in schools.

National based training and guidance might not be in complete alignment with Texas law and requirements.



## Step 9. Family Notification

Parents and/or guardians of each student enrolled in the school and/or school district must be informed when unassigned medication for respiratory distress policy is implemented.

Schools and school districts must meet the following notification requirements per [TEC, Section 38.212](#) and [25 TAC, Section 40.48](#):

- Before the policy starts.
- Beginning of each school year.
- Upon new student enrollment.
- Changes or discontinuation of the policy.
  - Notification has to happen within 15 days of the policy changing or ending.
- Notification can be written or electronic.

**Tip:** Schools in Texas have shared notification in newsletters, meetings and as part of back-to-school enrollment forms.

Whenever information is given to families about unassigned medication, be sure they know:

- Unassigned medication for respiratory distress is only for emergencies.
- Unassigned medication does not replace steps required for prescribed medications at school.
- If students have prescribed asthma medications to be used at school, families must plan to have authorization from their health care provider and a supply of medication at school.
- Best practice is for students with asthma to have an asthma action plan from their health care provider. The asthma action plan should be shared with the school.<sup>18</sup>
- Unassigned medication policies and requirements are to support the health and safety of students.

Schools should ensure communication materials are accessible and developed using plain language guidelines. Communication materials should also be made available in languages commonly used within local communities.

Parent and/or guardian notification after a student received unassigned medication is covered above in Step 5. Document, Follow-Up, and Report Medication Use of this guide.

[Appendix 4](#) provides a sample notice of policy that can be adapted for your school or district.



## Step 10. Review and Evaluation

While Texas law does not require evaluation, regular checks and evaluations help schools find ways to improve.

Information about the use of unassigned respiratory medication can be a powerful part of evaluation. Data from required reporting forms can be used to help the school:

- Understand the health needs of students.
- Plan steps to prevent need for unassigned medication in the future.

The following information can be especially helpful:

- How often unassigned medication is used.
- Where unassigned medication is most often needed.
- Common asthma triggers in the school.
- Feedback from staff and parents.

Tracking data can help identify strengths and opportunities for improvement. For example, schools may find:

- Gaps in staff training.
- Steps to improve medication restocking.
- Ways to strengthen emergency protocols.
- If reporting is consistent and complete.
- Locations with higher levels of asthma triggers.
- Opportunities for better follow-up.

Schools and school districts should be aware of their own rules and policies on sharing data when compiling reports and sharing with stakeholders.

Evaluation supports improved programs ensuring students get what they need and shows stakeholders the benefits of the program. Demonstrating student safety and fewer emergencies can build and maintain support for the program.



## Appendix 1: Building Support

You can build support for an unassigned medication policy in your school and community. Below are common questions and concerns from school officials and community partners.

### Who can schools partner with in the community?

Partnership may include:

- Local health departments
- Health and hospital systems
- Community clinics
- Non-profit organizations
- Faith-based organizations

### How do I share information about the needs of students with asthma?

Define the problem with information on:

- The number and percentage of students that have asthma.
- The number and percentage of students with asthma that do not have medication at school.
- The number of 911 calls during the school day.

School Health Services offices can assist in collecting and sharing student health data.

Share stories to engage partners

- Share success stories of students and families managing asthma.
- Highlight stories of those facing challenges with asthma.
- Ask staff, parents, administrators, and community members if they have a story to share.

Remember to always protect student privacy and get approval before sharing any information.

### Is the unassigned medication program too expensive?

- The American Lung Association estimates it costs about \$85 per campus to stock asthma medications at schools. ([Funding and Sustaining an Emergency Stock Asthma Medication Program](#)).
- A small reduction in absenteeism due to asthma can help offset costs.
- Donations of medications and supplies can also reduce or eliminate costs.

Is there a legal risk?

- Texas law [TEC, Section 38.215](#), provides legal protections to the school or school district, physician, nurse and other school staff or volunteers that would give unassigned medications to those in respiratory distress.

Do school nurses and staff have time for this?

- School nurses and school staff will take care of students with respiratory distress with or without unassigned medication available.

If a school does not have nurses on campuses, can the school still have unassigned medication?

- Texas law ([TEC, Section 38.208\(b-1\)](#)) permits any trained and authorized school staff and/or volunteer to administer unassigned medication. This approach is [supported by the National Association of School Nurses](#).

Is giving unassigned medication practicing medicine or nursing without a license?

- No. Trained and authorized school staff and/or volunteers do not diagnose or do physical assessment. Texas law ([TEC, Section 38.208\(b-1\)](#)) permits them to provide medication to someone reasonably thought to be experiencing respiratory distress.

## Appendix 2: Frequently Asked Questions from Doctors

The information below was developed by [SaferCare Texas](#) at the University of North Texas Health Science Center at Fort Worth. It is designed to answer questions that doctors and other medical professionals frequently ask about unassigned medications. Information is based on [TEC, Chapter 38, Subchapter E](#).

Who may provide standing delegation orders and prescriptions for unassigned respiratory distress medications such as albuterol?

- A physician or person who has been delegated prescriptive authority ([TEC, Section 38.211](#)).

What requirements are there for the standing delegation orders and prescriptions?

- Per [TEC, Section 38.211](#), it must contain:
  - The name and signature of the prescribing physician or other authorized prescriber;
  - The name of the school district, charter school, or private school to which the order is issued;
  - The quantity and types of medications to be obtained and maintained under the order; and
  - The date of issue.
- It is not required to be patient specific.
- It may be administered to a person without a previously established physician-patient relationship.

What laws govern unassigned medication for respiratory distress in Texas?

- [TEC, Chapter 38, Subchapter E](#), and [25 TAC, Chapter 40, Subchapter D](#), govern unassigned medication for respiratory distress.

What liability protection is included?

- Liability protection is covered under [TEC, Section 38.215](#). A person who in good faith takes, or fails to take, any action under this subchapter is immune from civil or criminal liability or disciplinary action, including:
  - Issuing an order;
  - Prescribing or dispensing medication;
  - Supervising or delegating administration of medication;
  - Possessing, maintaining, storing, or disposing of medication;
  - Administering or assisting in administering medication;
  - Providing, or assisting in providing training, consultation, or advice in the development;
  - Adoption, or implementation of policies, guidelines, rules, or plans; and

- Undertaking any other act permitted or required under statute.

What reports are the school or school district responsible for providing to the physician if the standing delegation order is used?

- Per [TEC, Section 38.2091](#), within 10 business days, the school district or school must provide:
  - The age of the person who received the medication;
  - Whether the person who received the medication was a student, a school personnel member or school volunteer, or a visitor;
  - The dosage of the medication administered;
  - The title of the person who administered the medication;
  - Any other information required by the Texas Commissioner of Education.

What action does the law require of physicians and authorized prescribers?

- Adequate supervision or delegation which includes ([TEC, Section 38.211](#)):
  - The prescriber must periodically review the standing delegation order.
  - The prescriber is available through direct telecommunication as needed for consultation, assistance, and direction.

How have physicians and authorized prescribers managed the reports of standing delegation order use?

- Physicians and prescribers determine how they wish to receive reports. In some school districts, physicians receive a report within 10 days of each use of unassigned medication. Other school districts will bundle all use of medication reports together and send to the physician a few times a month.

Who is responsible for training?

- The school or school district providing the unassigned respiratory medication (such as albuterol) is responsible for providing and documenting annual training of staff or authorized volunteers.

Are there training requirements?

- [TEC, Section 38.210](#) and [25 TAC, Section 40.46](#) specify each element of the training.

## Appendix 3: Sample Policy

The sample below is used by several Texas school districts that have successfully used unassigned medications. The sample policy below is aligned with the [Texas Association of School](#) (TASB) recommendations. TASB is a membership organization and some resources on the TASB website are not available to non-members.

### **WELLNESS AND HEALTH SERVICES FFAC MEDICAL TREATMENT (LEGAL)**

#### Maintenance and Administration of Medication for Respiratory Distress<sup>1</sup>

**Note:** The following provisions apply only to a district that will adopt a policy on medication for respiratory distress.

A district may adopt and implement a policy regarding the maintenance, administration, and disposal of medication for respiratory distress at each campus in the district.

*Education Code 38.208(a-1)*

If a policy is adopted, the policy must provide that school personnel and school volunteers who are authorized and trained may administer medication for respiratory distress to a person reasonably believed to be experiencing respiratory distress on a school campus, or at a school-sponsored or school-related activity on or off school property. *Education Code 38.208(b-1)*

“Medication for respiratory distress” means albuterol, levalbuterol, or another medication designated by the executive commissioner of the Health and Human Services Commission for treatment of respiratory distress Education Code 38.208(c). “School personnel” means an employee of a district.

#### Regular School Hours

Each district that adopts a policy must require that each campus have one or more school personnel or school volunteers authorized and trained to administer medication for respiratory distress present during regular school hours. *Education Code 38.208(d-1)*

#### Referral Required

If medication for respiratory distress is administered to a student whose parent or guardian has not provided notification to the school that the student has been diagnosed with asthma, the school must refer the student to the student’s primary care provider on the day the medication for respiratory distress is administered and inform the student’s parent or guardian regarding the referral.

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<sup>1</sup> This content includes publicly posted policy based on Texas Independent School District Board Policy FFAC.



The referral must include:

- The symptoms of respiratory distress observed;
- The name of the medication for respiratory distress administered to the student; and
- Any patient care instructions given to the student.

If a student who has received medication for respiratory distress does not have a primary care provider or the parent or guardian of the student has not engaged a primary care provider for the student, the student's parent or guardian must receive information to assist the parent or guardian in selecting a primary care provider for the student. *Education Code 38.208(b-2)-(b-3)*

#### Storage

The supply of medication for respiratory distress at each campus must be stored in a secure location and be easily accessible to authorized school personnel and school volunteers. *Education Code 38.208(e-1)*

#### Training

Each district that adopts a policy for the administration of medication for respiratory distress is responsible for training school personnel and school volunteers in the administration of medication for respiratory distress.

The training must include information on:

- Recognizing the signs and symptoms of respiratory distress;
- Administering medication for respiratory distress;
- Implementing emergency procedures, if necessary, after administering medication for respiratory distress; and
- Proper sanitization, reuse, and disposal of medication for respiratory distress.

*Education Code 38.210(a-1)*

#### Reporting Requirement

Not later than the 10th business day after the date a school personnel member or school volunteer administers medication for respiratory distress to a person experiencing respiratory distress, the school shall report the following information to the district, the physician or other person who prescribed the medication for respiratory distress, and the commissioner of state health services:

- The age of the person who received the administration of the medication for respiratory distress;

- Whether the person who received the administration of the medication for respiratory distress was a student, a school personnel member or school volunteer, or a visitor;
- The dosage of the medication for respiratory distress administered;
- The title of the person who administered the medication for respiratory distress; and
- Any other information required by the commissioner. *Education Code 38.2091*

#### No Negative Fiscal Impact

The policy may not require a district to purchase prescription medication for respiratory distress or require any other expenditure related to the maintenance or administration of medication for respiratory distress that would result in a negative fiscal impact on the district or school. *Education Code 38.208(f)*

#### Standing Order

A physician or person who has been delegated prescriptive authority under Occupations Code Chapter 157 may prescribe medication for respiratory distress in the name of a school district. *Education Code 38.211(a)*

#### Notice to Parents

If a district implements a policy for the maintenance, administration, and disposal of medication for respiratory distress, the district shall provide written notice of the policy to a parent or guardian of each student enrolled in the district. Notice must be provided before the policy is implemented by the district and before the start of each school year.

*Education Code 38.212*

#### Refusal to Administer

A school personnel member or school volunteer may not be subject to any penalty or disciplinary action for refusing to administer or receive training to administer epinephrine auto-injectors or medication for respiratory distress, as applicable, in accordance with a policy for the maintenance and administration of epinephrine autoinjectors or a policy for medication for respiratory distress. *Education Code 38.208(d-2)*

#### Immunity from Liability

A person who in good faith takes, or fails to take, any action related to Education Code Chapter 38, Subchapter E, related to the maintenance and administration of epinephrine auto-injectors and medication for respiratory distress, is immune from civil or criminal liability or disciplinary action resulting from that action or failure to act as described by Education Code 38.215 and 25 Administrative Code 40.49. *Education Code 38.215; 25 TAC 40.49*

## Appendix 4: Sample Policy Notification to Parents/Guardians

This sample policy notification has been adapted from materials developed by national associations and modified to align with Texas requirements.

Schools and school districts will need to decide whether medication is only available on campus during regular hours or also during school events and add this information to the notice.

### **Dear Parents/Guardians,**

We want to share an important update about our school's commitment to student health and safety.

Texas law now allows schools to keep emergency respiratory medication on hand for students or staff who have trouble breathing at school. National organizations support this to improve safety at school.

This respiratory medication will be available for emergencies during [enter either regular school hours or also for school events]. Only people trained and authorized by [the school or school district name] are allowed to give the medication.

If your child has a breathing emergency at school, we will try to contact you quickly while giving them the care they need.

If your child has a prescription medication to take at school, we still need:

- A signed medication authorization from your health care provider.
- A supply of medication for the student.

If your student has asthma, please bring an asthma action plan from your health care provider.

This policy [enter a link or reference attachment to the policy] allows us to provide fast help to students or staff with sudden breathing problems. Breathing problems can be caused by asthma or other health problems and conditions.

The emergency medication works quickly, opening airways and easing breathing for 4-6 hours. In severe cases, it can save lives while emergency help is on the way. It does not treat the cause of the issue, so medical care is still necessary.

If you have questions about this policy, please contact [enter who to reach out to].

We are proud to take this step to make school safer for all students.

**Sincerely,** [Principal's or Superintendent's Name] [Title] [School or School District Name]

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