

By: Crownover, Aycock, Herrero, Farney,  
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H.B. No. 2847

Substitute the following for H.B. No. 2847:

By: Aycock

C.S.H.B. No. 2847

A BILL TO BE ENTITLED

1 AN ACT

2 relating to policies and training regarding the use of epinephrine  
3 auto-injectors by school districts and open-enrollment charter  
4 schools; providing immunity.

5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

6 SECTION 1. Chapter 38, Education Code, is amended by adding  
7 Subchapter E to read as follows:

8 SUBCHAPTER E. MAINTENANCE, ADMINISTRATION, AND DISPOSAL OF  
9 EPINEPHRINE AUTO-INJECTORS

10 Sec. 38.201. DEFINITIONS. In this subchapter:

11 (1) "Advisory committee" means the committee  
12 established under Section 38.202.

13 (2) "Anaphylaxis" means a sudden, severe, and  
14 potentially life-threatening allergic reaction that occurs when a  
15 person is exposed to an allergen.

16 (3) "Epinephrine auto-injector" means a disposable  
17 medical drug delivery device that contains a premeasured single  
18 dose of epinephrine that is intended to be used to treat  
19 anaphylaxis.

20 (4) "Physician" means a person who holds a license to  
21 practice medicine in this state.

22 (5) "School personnel" means an employee of a school  
23 district or open-enrollment charter school. The term includes a  
24 member of the board of trustees of a school district or the

1 governing body of an open-enrollment charter school.

2 Sec. 38.202. ADVISORY COMMITTEE: ESTABLISHMENT AND  
3 COMPOSITION. (a) The commissioner of state health services shall  
4 establish an advisory committee to examine and review the  
5 administration of epinephrine auto-injectors to a person  
6 experiencing an anaphylactic reaction on a campus of a school  
7 district or an open-enrollment charter school.

8 (b) The advisory committee shall be composed of members  
9 appointed by the commissioner of state health services. In making  
10 appointments, the commissioner shall ensure that:

11 (1) a majority of the members are physicians with  
12 expertise in treating anaphylaxis, including physicians who  
13 specialize in the fields of pediatrics, allergies, asthma, and  
14 immunology; and

15 (2) at least one member is a registered nurse employed  
16 by a school district or open-enrollment charter school as a school  
17 nurse.

18 (c) A member of the advisory committee serves at the  
19 pleasure of the commissioner of state health services.

20 (d) A vacancy on the advisory committee is filled by the  
21 commissioner of state health services in the same manner as other  
22 appointments to the advisory committee.

23 Sec. 38.203. ADVISORY COMMITTEE: PRESIDING OFFICER. The  
24 advisory committee shall elect a presiding officer.

25 Sec. 38.204. ADVISORY COMMITTEE: COMPENSATION AND  
26 EXPENSES. Members of the advisory committee serve without  
27 compensation but are entitled to reimbursement for travel expenses.

1       Sec. 38.205. ADVISORY COMMITTEE: APPLICABILITY OF OTHER  
2 LAW. Chapter 2110, Government Code, does not apply to the advisory  
3 committee.

4       Sec. 38.206. ADVISORY COMMITTEE: OPEN MEETINGS. Meetings  
5 of the advisory committee are subject to Chapter 551, Government  
6 Code.

7       Sec. 38.207. ADVISORY COMMITTEE: DUTIES. The advisory  
8 committee shall advise the commissioner of state health services  
9 on:

10           (1) the storage and maintenance of epinephrine  
11 auto-injectors on school campuses;

12           (2) the training of school personnel and school  
13 volunteers in the administration of an epinephrine auto-injector;  
14 and

15           (3) a plan for one or more school personnel members or  
16 school volunteers trained in the administration of an epinephrine  
17 auto-injector to be on each school campus.

18       Sec. 38.208. MAINTENANCE AND ADMINISTRATION OF EPINEPHRINE  
19 AUTO-INJECTORS. (a) Each school district and open-enrollment  
20 charter school may adopt and implement a policy regarding the  
21 maintenance, administration, and disposal of epinephrine  
22 auto-injectors at each campus in the district or school.

23           (b) If a policy is adopted under Subsection (a), the policy:

24           (1) must provide that school personnel and school  
25 volunteers who are authorized and trained may administer an  
26 epinephrine auto-injector to a person who is reasonably believed to  
27 be experiencing anaphylaxis on a school campus; and

1           (2) may provide that school personnel and school  
2 volunteers who are authorized and trained may administer an  
3 epinephrine auto-injector to a person who is reasonably believed to  
4 be experiencing anaphylaxis at an off-campus school event or while  
5 in transit to or from a school event.

6           (c) The commissioner of state health services, in  
7 consultation with the commissioner of education, and with advice  
8 from the advisory committee, shall adopt rules regarding the  
9 maintenance, administration, and disposal of an epinephrine  
10 auto-injector at a school campus subject to a policy adopted under  
11 Subsection (a). The rules must establish:

12           (1) the number of epinephrine auto-injectors  
13 available at each campus;

14           (2) the process for each school district and  
15 open-enrollment charter school to check the inventory of  
16 epinephrine auto-injectors at regular intervals for expiration and  
17 replacement; and

18           (3) the amount of training required for school  
19 personnel and school volunteers to administer an epinephrine  
20 auto-injector.

21           (d) Each school district and open-enrollment charter school  
22 that adopts a policy under Subsection (a) must require that each  
23 campus have one or more school personnel members or school  
24 volunteers authorized and trained to administer an epinephrine  
25 auto-injector present during all hours the campus is open.

26           (e) The supply of epinephrine auto-injectors at each campus  
27 must be stored in a secure location and be easily accessible to

1 school personnel and school volunteers authorized and trained to  
2 administer an epinephrine auto-injector.

3 Sec. 38.209. REPORT ON ADMINISTERING EPINEPHRINE  
4 AUTO-INJECTOR. (a) Not later than the 10th business day after the  
5 date a school personnel member or school volunteer administers an  
6 epinephrine auto-injector in accordance with a policy adopted under  
7 Section 38.208(a), the school shall report the information required  
8 under Subsection (b) to:

9 (1) the school district or the charter holder if the  
10 school is an open-enrollment charter school;

11 (2) the physician or other person who prescribed the  
12 epinephrine auto-injector;

13 (3) the commissioner of education; and

14 (4) the commissioner of state health services.

15 (b) The report required under this section must include the  
16 following information:

17 (1) the age of the person who received the  
18 administration of the epinephrine auto-injector;

19 (2) whether the person who received the administration  
20 of the epinephrine auto-injector was a student, a school personnel  
21 member or school volunteer, or a visitor;

22 (3) the physical location where the epinephrine  
23 auto-injector was administered;

24 (4) the number of doses of epinephrine auto-injector  
25 administered;

26 (5) the title of the person who administered the  
27 epinephrine auto-injector; and

1           (6) any other information required by the commissioner  
2 of education.

3           Sec. 38.210. TRAINING. (a) Each school district and  
4 open-enrollment charter school that adopts a policy under Section  
5 38.208(a) is responsible for training school personnel and school  
6 volunteers in the administration of an epinephrine auto-injector.

7           (b) Training required under this section must:

8           (1) include information on:

9           (A) recognizing the signs and symptoms of  
10 anaphylaxis;

11           (B) administering an epinephrine auto-injector;

12           (C) implementing emergency procedures, if  
13 necessary, after administering an epinephrine auto-injector; and

14           (D) properly disposing of used or expired  
15 epinephrine auto-injectors; and

16           (2) be provided in a formal training session or  
17 through online education and be completed annually.

18           (c) Each school district and open-enrollment charter school  
19 shall maintain records on the training required under this section.

20           Sec. 38.211. PRESCRIPTION OF EPINEPHRINE AUTO-INJECTORS.

21           (a) A physician or person who has been delegated prescriptive  
22 authority under Chapter 157, Occupations Code, may prescribe  
23 epinephrine auto-injectors in the name of a school district or  
24 open-enrollment charter school.

25           (b) A physician or other person who prescribes epinephrine  
26 auto-injectors under Subsection (a) shall provide the school  
27 district or open-enrollment charter school with a standing order

1 for the administration of an epinephrine auto-injector to a person  
2 reasonably believed to be experiencing anaphylaxis.

3 (c) The standing order under Subsection (b) is not required  
4 to be patient-specific, and the epinephrine auto-injector may be  
5 administered to a person without a previously established  
6 physician-patient relationship.

7 (d) Notwithstanding any other provisions of law,  
8 supervision or delegation by a physician is considered adequate if  
9 the physician:

10 (1) periodically reviews the order; and

11 (2) is available through direct telecommunication as  
12 needed for consultation, assistance, and direction.

13 (e) An order issued under this section must contain:

14 (1) the name and signature of the prescribing  
15 physician or other person;

16 (2) the name of the school district or open-enrollment  
17 charter school to which the order is issued;

18 (3) the quantity of epinephrine auto-injectors to be  
19 obtained and maintained under the order; and

20 (4) the date of issue.

21 (f) A pharmacist may dispense an epinephrine auto-injector  
22 to a school district or open-enrollment charter school without  
23 requiring the name or any other identifying information relating to  
24 the user.

25 Sec. 38.212. NOTICE TO PARENTS. If a school district or  
26 open-enrollment charter school implements a policy under this  
27 subchapter for the maintenance, administration, and disposal of

1 epinephrine auto-injectors, the district or school shall provide  
2 written notice to a parent or guardian of each student enrolled in  
3 the district or school. Notice required under this section must be  
4 provided before the policy is implemented by the district or school  
5 and before the start of each school year.

6 Sec. 38.213. GIFTS, GRANTS, AND DONATIONS. A school  
7 district or open-enrollment charter school may accept gifts,  
8 grants, donations, and federal and local funds to implement this  
9 subchapter.

10 Sec. 38.214. RULES. Except as otherwise provided by this  
11 subchapter, the commissioner of education and the commissioner of  
12 state health services shall jointly adopt rules necessary to  
13 implement this subchapter.

14 Sec. 38.215. IMMUNITY FROM LIABILITY. (a) A person who in  
15 good faith takes, or fails to take, any action under this subchapter  
16 is immune from civil or criminal liability or disciplinary action  
17 resulting from that action or failure to act, including:

18 (1) issuing an order for epinephrine auto-injectors;

19 (2) supervising or delegating the administration of an  
20 epinephrine auto-injector;

21 (3) possessing, maintaining, storing, or disposing of  
22 an epinephrine auto-injector;

23 (4) prescribing an epinephrine auto-injector;

24 (5) dispensing an epinephrine auto-injector;

25 (6) administering, or assisting in administering, an  
26 epinephrine auto-injector;

27 (7) providing, or assisting in providing, training,



1 consultation, or advice in the development, adoption, or  
2 implementation of policies, guidelines, rules, or plans; or

3 (8) undertaking any other act permitted or required  
4 under this subchapter.

5 (b) The immunities and protections provided by this  
6 subchapter are in addition to other immunities or limitations of  
7 liability provided by law.

8 (c) Notwithstanding any other law, this subchapter does not  
9 create a civil, criminal, or administrative cause of action or  
10 liability or create a standard of care, obligation, or duty that  
11 provides a basis for a cause of action for an act or omission under  
12 this subchapter.

13 (d) A cause of action does not arise from an act or omission  
14 described by this section.

15 (e) A school district or open-enrollment charter school and  
16 school personnel and school volunteers are immune from suit  
17 resulting from an act, or failure to act, under this subchapter,  
18 including an act or failure to act under related policies and  
19 procedures.

20 (f) An act or failure to act by school personnel or a school  
21 volunteer under this subchapter, including an act or failure to act  
22 under related policies and procedures, is the exercise of judgment  
23 or discretion on the part of the school personnel or school  
24 volunteer and is not considered to be a ministerial act for purposes  
25 of liability of the school district or open-enrollment charter  
26 school.

27 SECTION 2. Section [38.0151](#), Education Code, is amended by

1 adding Subsection (f) to read as follows:

2 (f) A school district or open-enrollment charter school  
3 that provides for the maintenance, administration, and disposal of  
4 epinephrine auto-injectors under Subchapter E is not required to  
5 comply with this section.

6 SECTION 3. This Act applies beginning with the 2015-2016  
7 school year.

8 SECTION 4. This Act takes effect immediately if it receives  
9 a vote of two-thirds of all the members elected to each house, as  
10 provided by Section 39, Article III, Texas Constitution. If this  
11 Act does not receive the vote necessary for immediate effect, this  
12 Act takes effect September 1, 2015.