

By: Crownover

H.B. No. 2847

A BILL TO BE ENTITLED

AN ACT

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

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

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

SUBCHAPTER E. MAINTENANCE AND ADMINISTRATION OF EPINEPHRINE

AUTO-INJECTORS

Sec. 38.201. DEFINITIONS. In this subchapter:

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

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

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

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

Sec. 38.202. ADVISORY COMMITTEE: ESTABLISHMENT AND COMPOSITION. (a) The commissioner of state health services shall establish an advisory committee to examine and review the

1 administration of epinephrine auto-injectors to a person
2 experiencing an anaphylactic reaction on a campus of a school
3 district or an open-enrollment charter school.

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

7 (1) a majority of the members are physicians with
8 expertise in treating anaphylaxis, including physicians who
9 specialize in the fields of pediatrics, allergies, asthma, and
10 immunology; and

11 (2) at least one member is a registered nurse employed
12 by a school district or open-enrollment charter school as a school
13 nurse.

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

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

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

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

24 Sec. 38.205. ADVISORY COMMITTEE: APPLICABILITY OF OTHER
25 LAW. Chapter 2110, Government Code, does not apply to the advisory
26 committee.

27 Sec. 38.206. ADVISORY COMMITTEE: OPEN MEETINGS. Meetings

1 of the advisory committee are subject to Chapter 551, Government
2 Code.

3 Sec. 38.207. ADVISORY COMMITTEE: DUTIES. The advisory
4 committee shall advise the commissioner of state health services
5 on:

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

8 (2) the training of school personnel in the
9 administration of an epinephrine auto-injector; and

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

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

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

19 (1) must provide that school personnel who are
20 authorized and trained may administer an epinephrine auto-injector
21 to a person who is reasonably believed to be experiencing
22 anaphylaxis on a school campus; and

23 (2) may provide that school personnel who are
24 authorized and trained may administer an epinephrine auto-injector
25 to a person who is reasonably believed to be experiencing
26 anaphylaxis at an off-campus school event or while in transit to or
27 from a school event.

1 (c) The commissioner of state health services, in
2 consultation with the commissioner of education, and with advice
3 from the advisory committee, shall adopt rules regarding the
4 administration of an epinephrine auto-injector at a school campus
5 subject to a policy adopted under Subsection (a). The rules must
6 establish:

7 (1) the number of epinephrine auto-injectors
8 available at each campus;

9 (2) the process for each school district and
10 open-enrollment charter school to check the inventory of
11 epinephrine auto-injectors at regular intervals for expiration and
12 replacement; and

13 (3) the amount of training required for school
14 personnel to administer an epinephrine auto-injector.

15 (d) Each school district and open-enrollment charter school
16 that adopts a policy under Subsection (a) must require that each
17 campus have one or more school personnel members authorized and
18 trained to administer an epinephrine auto-injector present during
19 all hours the campus is open.

20 (e) The supply of epinephrine auto-injectors at each campus
21 must be stored in a secure location and be easily accessible to
22 school personnel authorized and trained to administer an
23 epinephrine auto-injector.

24 Sec. 38.209. REPORT ON ADMINISTERING EPINEPHRINE
25 AUTO-INJECTOR. (a) Not later than the 10th business day after the
26 date a school personnel member administers an epinephrine
27 auto-injector in accordance with a policy adopted under Section

1 38.208(a), the school shall report the information required under
2 Subsection (b) to:

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

5 (2) the physician who prescribed the epinephrine
6 auto-injector;

7 (3) the commissioner of education; and

8 (4) the commissioner of state health services.

9 (b) The report required under this section must include the
10 following information:

11 (1) the age of the person who received the
12 administration of the epinephrine auto-injector;

13 (2) whether the person who received the administration
14 of the epinephrine auto-injector was a student, a school personnel
15 member, or a visitor;

16 (3) the physical location where the epinephrine
17 auto-injector was administered;

18 (4) the number of doses of epinephrine auto-injector
19 administered;

20 (5) the title of the person who administered the
21 epinephrine auto-injector; and

22 (6) any other information required by the commissioner
23 of education.

24 Sec. 38.210. TRAINING. (a) Each school district and
25 open-enrollment charter school that adopts a policy under Section
26 38.208(a) is responsible for training school personnel in the
27 administration of an epinephrine auto-injector.

1 (b) Training required under this section must:

2 (1) include information on:

3 (A) recognizing the signs and symptoms of
4 anaphylaxis;

5 (B) administering an epinephrine auto-injector;

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

8 (D) properly disposing of used or expired
9 epinephrine auto-injectors; and

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

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

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

15 (a) A physician may prescribe epinephrine auto-injectors in the
16 name of a school district or open-enrollment charter school.

17 (b) A physician who prescribes epinephrine auto-injectors
18 under Subsection (a) shall provide the school district or
19 open-enrollment charter school with a standing order for the
20 administration of an epinephrine auto-injector to a person
21 reasonably believed to be experiencing anaphylaxis.

22 (c) The standing order under Subsection (b) is not required
23 to be patient-specific, and the epinephrine auto-injector may be
24 administered to a person without an established physician-patient
25 relationship.

26 (d) Notwithstanding any other provisions of law,
27 supervision or delegation by a physician is considered adequate if

1 the physician:

2 (1) periodically reviews the order; and

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

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

6 (1) the name and signature of the prescribing
7 physician;

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

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

12 (4) the date of issue.

13 (f) A pharmacist may dispense an epinephrine auto-injector
14 to a school district or open-enrollment charter school without
15 requiring the name or any other identifying information relating to
16 the user.

17 Sec. 38.212. GIFTS, GRANTS, AND DONATIONS. A school
18 district or open-enrollment charter school may accept gifts,
19 grants, donations, and federal and local funds to implement this
20 subchapter.

21 Sec. 38.213. RULES. Except as otherwise provided by this
22 subchapter, the commissioner of education and the commissioner of
23 state health services shall jointly adopt rules necessary to
24 implement this subchapter.

25 Sec. 38.214. IMMUNITY FROM LIABILITY. (a) A person who in
26 good faith takes, or fails to take, any of the following actions
27 under this subchapter is immune from civil or criminal liability or

1 disciplinary action resulting from that action or failure to act:

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

3 (2) supervising or delegating the administration of an
4 epinephrine auto-injector;

5 (3) possessing an epinephrine auto-injector;

6 (4) prescribing an epinephrine auto-injector;

7 (5) dispensing an epinephrine auto-injector;

8 (6) administering, or assisting in administering, an
9 epinephrine auto-injector;

10 (7) providing, or assisting in providing, training,
11 consultation, or advice in the development, adoption, or
12 implementation of policies, guidelines, rules, or plans; or

13 (8) undertaking any other act permitted or required
14 under this subchapter.

15 (b) The immunity provided by Subsection (a) is in addition
16 to other immunity or limitations of liability provided by law.

17 (c) Notwithstanding any other law, this subchapter does not
18 create a cause of action or liability or create a standard of care,
19 obligation, or duty that provides a basis for a cause of action
20 against a school district or open-enrollment charter school or
21 district or school personnel for the use of, or failure to use, an
22 epinephrine auto-injector as provided by this subchapter.

23 SECTION 2. Section 38.0151, Education Code, is amended by
24 adding Subsection (f) to read as follows:

25 (f) A school district or open-enrollment charter school
26 that provides for the maintenance and administration of epinephrine
27 auto-injectors under Subchapter E is not required to comply with

1 this section.

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

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