

AN ACT

relating to the use of epinephrine auto-injectors on public school and open-enrollment charter school campuses and at or in transit to or from off-campus school events.

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

SECTION 1. This Act shall be known as the Cameron Espinosa Act.

SECTION 2. Chapter 38, Education Code, is amended by adding Subchapter E to read as follows:

SUBCHAPTER E. MAINTENANCE, ADMINISTRATION, AND DISPOSAL 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.

(5) "School personnel" means an employee of a school

1 district or open-enrollment charter school. The term includes a
2 member of the board of trustees of a school district or the
3 governing body of an open-enrollment charter school.

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

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

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

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

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

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

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

27 Sec. 38.204. ADVISORY COMMITTEE: COMPENSATION AND

1 EXPENSES. Members of the advisory committee serve without
2 compensation but are entitled to reimbursement for travel expenses.

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

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

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

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

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

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

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

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

26 (1) must provide that school personnel and school
27 volunteers who are authorized and trained may administer an

1 epinephrine auto-injector to a person who is reasonably believed to
2 be experiencing anaphylaxis on a school campus; and

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

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

14 (1) the number of epinephrine auto-injectors
15 available at each campus;

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

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

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

1 (e) The supply of epinephrine auto-injectors at each campus
2 must be stored in a secure location and be easily accessible to
3 school personnel and school volunteers authorized and trained to
4 administer an epinephrine auto-injector.

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

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

13 (2) the physician or other person who prescribed the
14 epinephrine auto-injector;

15 (3) the commissioner of education; and

16 (4) the commissioner of state health services.

17 (b) The report required under this section must include the
18 following information:

19 (1) the age of the person who received the
20 administration of the epinephrine auto-injector;

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

24 (3) the physical location where the epinephrine
25 auto-injector was administered;

26 (4) the number of doses of epinephrine auto-injector
27 administered;

1 (5) the title of the person who administered the
2 epinephrine auto-injector; and

3 (6) any other information required by the commissioner
4 of education.

5 Sec. 38.210. TRAINING. (a) Each school district and
6 open-enrollment charter school that adopts a policy under Section
7 38.208(a) is responsible for training school personnel and school
8 volunteers in the administration of an epinephrine auto-injector.

9 (b) Training required under this section must:

10 (1) include information on:

11 (A) recognizing the signs and symptoms of
12 anaphylaxis;

13 (B) administering an epinephrine auto-injector;

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

16 (D) properly disposing of used or expired
17 epinephrine auto-injectors; and

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

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

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

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

27 (b) A physician or other person who prescribes epinephrine

1 auto-injectors under Subsection (a) shall provide the school
2 district or open-enrollment charter school with a standing order
3 for the administration of an epinephrine auto-injector to a person
4 reasonably believed to be experiencing anaphylaxis.

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

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

12 (1) periodically reviews the order; and
13 (2) is available through direct telecommunication as
14 needed for consultation, assistance, and direction.

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

16 (1) the name and signature of the prescribing
17 physician or other person;

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

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

22 (4) the date of issue.

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

27 Sec. 38.212. NOTICE TO PARENTS. If a school district or

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

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

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

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

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

21 (2) supervising or delegating the administration of an
22 epinephrine auto-injector;

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

25 (4) prescribing an epinephrine auto-injector;

26 (5) dispensing an epinephrine auto-injector;

27 (6) administering, or assisting in administering, an

1 epinephrine auto-injector;

2 (7) providing, or assisting in providing, training,
3 consultation, or advice in the development, adoption, or
4 implementation of policies, guidelines, rules, or plans; or

5 (8) undertaking any other act permitted or required
6 under this subchapter.

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

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

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

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

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

1 school.

2 SECTION 3. Section 38.0151, Education Code, is amended by
3 adding Subsection (f) to read as follows:

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

8 SECTION 4. This Act applies beginning with the 2015-2016
9 school year.

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

President of the Senate

Speaker of the House

I hereby certify that S.B. No. 66 passed the Senate on April 15, 2015, by the following vote: Yeas 24, Nays 7; and that the Senate concurred in House amendment on May 19, 2015, by the following vote: Yeas 24, Nays 7.

Secretary of the Senate

I hereby certify that S.B. No. 66 passed the House, with amendment, on May 13, 2015, by the following vote: Yeas 143, Nays 0, two present not voting.

Chief Clerk of the House

Approved:

Date

Governor