

By: Hinojosa

S.B. No. 66

A BILL TO BE ENTITLED

1 AN ACT

2 relating to the use of epinephrine auto-injectors on public and
3 open-enrollment charter school campuses and at off-campus
4 school-sanctioned events.

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

6 SECTION 1. Subchapter A, Chapter 38, Education Code, is
7 amended by adding Section 38.0152 to read as follows:

8 Sec. 38.0152. MAINTENANCE OF SUPPLY OF EPINEPHRINE
9 AUTO-INJECTORS; PRESCRIBING; TRAINING; AND ADMINISTRATION.

10 (a) In this section:

11 (1) "Anaphylaxis" means a sudden, severe, and
12 potentially life-threatening allergic reaction that occurs when an
13 individual is exposed to an allergen.

14 (2) "Epinephrine auto-injector" means a portable,
15 disposable drug delivery device that contains a premeasured single
16 dose of epinephrine that is intended to be used to treat
17 anaphylaxis.

18 (3) "Open-enrollment charter school" means a school
19 established under Subchapter D, Chapter 12, of this code.

20 (4) "Physician" means an individual licensed to
21 practice medicine in this state.

22 (5) "Type of individual" means a student at, staff of,
23 or visitor to a campus or an off-campus school-sanctioned event who
24 receives administration of an epinephrine auto-injector under this

1 section.

2 (b) Each school district and open-enrollment charter school
3 shall adopt and implement a policy consistent with the requirements
4 of this section for the possession, administration, and disposal of
5 epinephrine auto-injectors at every campus within the school
6 district or open-enrollment charter school so that the epinephrine
7 auto-injector may be administered by a school employee who is
8 authorized and trained in the administration of an epinephrine
9 auto-injector to an individual on the campus or at an off-campus
10 school-sanctioned event who is reasonably believed to be
11 experiencing anaphylaxis.

12 (c)(1) The commissioner of state health services shall
13 establish within the Department of State Health Services an
14 advisory committee on the use of epinephrine auto-injectors on
15 undesignated individuals on the campus of a school district or an
16 open-enrollment charter school, or at an off-campus
17 school-sanctioned event.

18 (2) The commissioner of state health services shall
19 appoint the members of the advisory committee.

20 (3) The advisory committee shall advise the
21 commissioner of state health services on:

22 (A) the storage of epinephrine auto-injectors on
23 school campuses as provided in Subsection (d)(1);

24 (B) the maintenance of epinephrine
25 auto-injectors while in transit to or from an off-campus
26 school-sanctioned event as provided in Subsection (d)(1);

27 (C) the training of school employees as provided

1 in Subsection (d)(2); and

2 (D) a plan at each campus for having one or more
3 trained employees as provided in Subsection (d)(3).

4 (4) The advisory committee shall include physicians
5 with expertise in treating anaphylaxis, including physicians who
6 specialize in the fields of pediatrics, allergy, asthma, and
7 immunology.

8 (5) The advisory committee shall elect a presiding
9 officer.

10 (6) Members of the advisory committee serve without
11 compensation but are entitled to reimbursement for the members'
12 travel expenses as provided by Chapter 660, Government Code, and
13 the General Appropriations Act.

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

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

19 (9) Chapter 2110, Government Code, does not apply to
20 the advisory committee formed under this subsection.

21 (10) Meetings of the advisory committee are subject to
22 Chapter 551, Government Code.

23 (d) In consultation with the commissioner, and after
24 consideration of advice from the advisory committee described in
25 Subsection (c), the commissioner of state health services shall
26 adopt rules for school districts and open-enrollment charter
27 schools to use in the development of the policy described in

1 Subsection (b). The rules must establish:

2 (1) the quantity of epinephrine auto-injectors to be
3 stored at each campus or maintained while in transit to or from an
4 off-campus school-sanctioned event and a requirement that stock
5 inventory be checked at regular intervals for expiration and
6 replacement;

7 (2) the level of training required for school
8 employees in the administration of an epinephrine auto-injector to
9 an individual who is reasonably believed to be experiencing
10 anaphylaxis; and

11 (3) a requirement at each campus for having present,
12 during all operating hours, one or more trained school employees
13 described in Subsection (f).

14 (e) Training described in Subsection (d)(2) must:

15 (1) include information regarding how to:

16 (A) recognize the signs and symptoms of
17 anaphylaxis;

18 (B) administer an epinephrine auto-injector;

19 (C) implement emergency procedures, if
20 necessary, after administering an epinephrine auto-injector; and

21 (D) properly dispose of used or expired
22 epinephrine auto-injectors;

23 (2) be obtained in formal training sessions or through
24 online education; and

25 (3) be completed annually.

26 (f) Each school district and open-enrollment charter school
27 shall be responsible for ensuring that school employees identified

1 by the district or the open-enrollment charter school on each
2 campus, or at an off-campus school-sanctioned event, are trained as
3 described in Subsection (e) to administer an epinephrine
4 auto-injector to an individual on the campus or at an off-campus
5 school-sanctioned event who is reasonably believed to be
6 experiencing anaphylaxis. Each school district and
7 open-enrollment charter school shall maintain records on the
8 training of such employees.

9 (g) Each school district and open-enrollment charter school
10 shall maintain at each campus in the district or of the
11 open-enrollment charter school a supply of epinephrine
12 auto-injectors that may be administered by a school employee who is
13 trained as described in Subsection (e) to an individual on a campus
14 in the district or of the open-enrollment charter school, or at an
15 off-campus school-sanctioned event, who is reasonably believed to
16 be experiencing anaphylaxis. The school district or
17 open-enrollment charter school, as appropriate, shall be
18 responsible for checking stock inventory of such epinephrine
19 auto-injectors at regular intervals for expiration and
20 replacement. In determining the number of epinephrine
21 auto-injectors to be kept for such purpose on a campus, the school
22 district or the open-enrollment charter school shall follow the
23 rules described in Subsection (d).

24 (h) The supply of epinephrine auto-injectors at each campus
25 shall be stored in a secure location or maintained securely while in
26 transit to or from an off-campus school-sanctioned event, and must
27 be easily accessible to trained school employees.

1 (i)(1) A physician may prescribe epinephrine auto-injectors
2 in the name of a school district or open-enrollment charter school
3 to be maintained for use when necessary. The prescribing physician
4 shall provide the school district or open-enrollment charter
5 school, as appropriate, a standing order for the administration of
6 school-supplied epinephrine auto-injectors to undesignated
7 individuals who are reasonably believed to be experiencing
8 anaphylaxis. The order shall not be required to be
9 patient-specific, and the administration may occur without a prior
10 established physician-patient relationship. Notwithstanding the
11 provisions of other law regarding delegation or supervision,
12 supervision or delegation by a physician shall be adequate if the
13 physician periodically reviews the order and is available through
14 direct telecommunication as needed for consultation, assistance,
15 and direction.

16 (2) An order issued under this subsection must
17 contain:

18 (A) the name and signature of the physician
19 described in Subdivision (1);

20 (B) the name of the school district or
21 open-enrollment charter school to which the order is issued;

22 (C) the quantity of epinephrine auto-injectors
23 to be obtained and maintained under the order; and

24 (D) the date of issue.

25 (j) A pharmacist may dispense an epinephrine auto-injector
26 under this section without the name of, or other identifying
27 information relating to, the ultimate user.

1 (k) School employees who have received the training
2 described in Subsection (e) may:

3 (1) obtain one or more epinephrine auto-injectors from
4 the locations described in Subsection (h), or maintained while in
5 transit to or from a school-sanctioned event as described in
6 Subsection (h), in accordance with the provisions of this section;
7 and

8 (2) administer such epinephrine auto-injectors in
9 accordance with the provisions of this section.

10 (1)(1) Not later than 10 business days after the
11 administration of an epinephrine auto-injector by a school employee
12 under the terms of this section, the school shall report to the
13 school district, or in the case of an open-enrollment charter
14 school, the charter school shall document, in a form and manner
15 prescribed by the commissioner, the following information:

16 (A) age and type of individual receiving
17 administration of the epinephrine auto-injector;

18 (B) physical location on or off campus where the
19 epinephrine auto-injector was administered;

20 (C) number of doses administered;

21 (D) title of person administering the
22 epinephrine auto-injector; and

23 (E) any other information required by the
24 commissioner.

25 (2) Not later than 10 business days after the
26 administration of an epinephrine auto-injector by a school employee
27 under the terms of this section, the school district or the

1 open-enrollment charter school shall report the information
2 described in Subdivision (1) to:

3 (A) the physician described in Subsection (i);

4 (B) the commissioner; and

5 (C) the commissioner of state health services.

6 (m) A school district or an open-enrollment charter school
7 may each accept gifts, donations, grants, and federal and local
8 funds for the support of that school district or open-enrollment
9 charter school in carrying out the provisions of this section.

10 (n)(1) Except as provided by Subsection (d) or by
11 Subdivision (2), the commissioner and the commissioner of state
12 health services shall jointly adopt rules to implement this
13 section.

14 (2) Rules to implement Subsection (c) shall be adopted
15 solely by the commissioner of state health services.

16 (o) Epinephrine auto-injectors may be administered as
17 provided under this section on campus and at off-campus
18 school-sanctioned events. The immunity provisions of this section
19 shall apply in such cases.

20 (p) A person who in good faith takes, or fails to take, any
21 of the following actions under this section is immune from
22 liability in any criminal or disciplinary action and for civil
23 damages as a result of that act or failure to act:

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

25 (2) supervising or delegating as described in
26 Subsection (i)(1);

27 (3) possessing an epinephrine auto-injector;

1 (4) prescribing an epinephrine auto-injector;

2 (5) dispensing an epinephrine auto-injector;

3 (6) administering, or assisting in the administering
4 of, an epinephrine auto-injector;

5 (7) providing training, consultation, or advice in the
6 development, adoption, or implementation of policies, guidelines,
7 rules, or plans;

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

11 (9) undertaking any other required or authorized act.

12 (q) The immunities and protections granted in this section
13 are in addition to, and not in lieu of, immunity or protection
14 provided pursuant to any other provisions of law.

15 (r) If a school district or open-enrollment charter school
16 lacks the funding, or other forms of support as described in
17 Subsection (m), that is necessary to meet the requirements of this
18 section, the school district or open-enrollment charter school
19 shall not be required to comply with the requirements of this
20 section.

21 (s) If a school district or open-enrollment charter school
22 is unable to meet the requirements of this section due to a
23 manufacturer's recall or any other unanticipated loss or reduction
24 in supply of epinephrine auto-injectors that adversely affects the
25 ability of a school district or open-enrollment charter school to
26 obtain epinephrine auto-injectors in quantities that are
27 sufficient to meet the requirements of this section, the school

1 district or open-enrollment charter school shall not be required to
2 comply with such requirements.

3 (t) Notwithstanding the provisions of Subsections (r) and
4 (s), the immunities and protections granted in this section shall
5 continue in full force and effect.

6 (u) Notwithstanding any other law, this section does not
7 create a civil, criminal, or administrative cause of action or a
8 standard of care, obligation, or duty that provides a basis for a
9 cause of action.

10 (v) Notwithstanding the provisions of Subsections (r) and
11 (s), the provisions of Subsection (u) shall continue in full force
12 and effect.

13 (w) A cause of action does not arise from an act or omission
14 described by Subsection (p).

15 SECTION 2. This Act takes effect September 1, 2015.