

BILL ANALYSIS

Senate Research Center
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S.B. 1101
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As Filed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

During the 84th session, the legislature passed S.B. 66 to authorize public schools to stock and administer epinephrine auto-injectors to treat individuals suffering from anaphylaxis, a severe allergic response of potentially life-threatening symptoms. Students without a prescribed epinephrine auto-injector may suffer from extreme symptoms of anaphylaxis if they are not treated in a timely manner. In cases of undiscovered allergies, students may lack available, prescribed treatment when symptoms emerge. Further, food allergies are the most common medical condition affecting children and are the leading cause of anaphylaxis. Interested parties note that while public schools may adopt epinephrine policies, so, too, should day care centers.

As filed, S.B. 1101 authorizes day care centers to stock unprescribed epinephrine auto-injectors and insulates day care administrators from certain liabilities when attempting to save a child from anaphylaxis. Further, this bill authorizes physicians to prescribe epinephrine auto-injectors in the name of a day care center and provides a standing order for administering epinephrine to undesignated individuals.

As proposed, S.B. 1101 amends current law relating to the prescription of epinephrine auto-injectors to and administration of epinephrine auto-injectors in day-care centers and limits liability.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Subchapter C, Chapter 42, Human Resources Code, by adding Section 42.066, as follows:

Sec. 42.066. EPINEPHRINE AUTO-INJECTORS. (a) Defines "anaphylaxis," "epinephrine auto-injector," and "physician."

(b) Authorizes a physician, or a person who has been delegated prescriptive authority under Chapter 157 (Authority of Physician to Delegate Certain Medical Acts), Occupations Code, to prescribe epinephrine auto-injectors in the name of a day-care center.

(c) Requires a physician or other person who prescribes epinephrine auto-injectors under Subsection (b) to provide the day-care center with a standing order for the administration of an epinephrine auto-injector to a person reasonably believed to be experiencing anaphylaxis.

(d) Provides that a standing order under Subsection (c) is not required to be patient-specific. Authorizes an epinephrine auto-injector to be administered under this section to a person without a previously established physician-patient relationship.

(e) Provides that, notwithstanding any other law, supervision or delegation by a physician is considered adequate if the physician periodically reviews the order and is available through direct telecommunication as needed for consultation, assistance, and direction.

(f) Requires an order issued under this section to contain certain information relating to the prescribing physician, day-care center, and auto-injector.

(g) Authorizes a pharmacist to dispense an epinephrine auto-injector to a day-care center without requiring the name of or any other identifying information relating to the user.

(h) Provides that each day-care center is responsible for training personnel in the administration of an epinephrine auto-injector. Requires the training to include certain information relating to anaphylaxis and the use of epinephrine auto-injectors, and be provided in a formal training session or through online education and be completed annually.

(i) Requires each day-care center to maintain records on the training required by this section.

(j) Provides that a person who in good faith takes, or fails to take, action relating to the prescription of an epinephrine auto-injector to a day-care center or the administration of an epinephrine auto-injector in a day-care center is immune from civil or criminal liability or disciplinary action resulting from that action or failure to act, including certain actions relating to the issuing, possessing, or dispensing epinephrine auto-injectors.

(k) Provides that the immunities and protections provided by this section are in addition to other immunities or limitations of liability provided by law.

(l) Provides that notwithstanding any other law, this section does not create a civil, criminal, or administrative cause of action or liability or create a standard of care, obligation, or duty that provides a basis for a cause of action for an act or omission under this section.

(m) Provides that an act or omission described by this section does not create a cause of action.

SECTION 2. Effective date: upon passage or September 1, 2017.