

By: Howard, Cortez, Flynn, Sheffield, Klick

H.B. No. 3851

Substitute the following for H.B. No. 3851:

By: Lozano

C.S.H.B. No. 3851

A BILL TO BE ENTITLED

AN ACT

1
2 relating to policies and training regarding the use of epinephrine
3 auto-injectors by public institutions of higher education;
4 providing immunity.

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

6 SECTION 1. Section 38.202, Education Code, is amended by
7 amending Subsections (a) and (b) and adding Subsection (e) to read
8 as follows:

9 (a) The commissioner of state health services shall
10 establish an advisory committee to examine and review the
11 administration of epinephrine auto-injectors to a person
12 experiencing an anaphylactic reaction on a campus of a school
13 district, ~~or~~ an open-enrollment charter school, or an institution
14 of higher education.

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

18 (1) a majority of the members are physicians with
19 expertise in treating anaphylaxis, including physicians who
20 specialize in the fields of pediatrics, allergies, asthma, and
21 immunology; ~~and~~

22 (2) at least one member is a registered nurse employed
23 by a school district or open-enrollment charter school as a school
24 nurse;

1 (3) at least one member is an employee of a general
2 academic teaching institution; and

3 (4) at least one member is an employee of a public
4 junior college or a public technical institute.

5 (e) In this section, "general academic teaching
6 institution," "institution of higher education," "public junior
7 college," and "public technical institute" have the meanings
8 assigned by Section 61.003.

9 SECTION 2. Section 38.207, Education Code, is amended to
10 read as follows:

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

14 (1) the storage and maintenance of epinephrine
15 auto-injectors on school campuses and campuses of institutions of
16 higher education;

17 (2) the training of school personnel and school
18 volunteers and of personnel and volunteers at institutions of
19 higher education in the administration of an epinephrine
20 auto-injector; and

21 (3) a plan for:

22 (A) one or more school personnel members or
23 school volunteers trained in the administration of an epinephrine
24 auto-injector to be on each school campus; and

25 (B) one or more personnel members or volunteers
26 of an institution of higher education trained in the administration
27 of an epinephrine auto-injector to be on each campus of an

1 institution of higher education.

2 SECTION 3. Chapter 51, Education Code, is amended by adding
3 Subchapter Y-1 to read as follows:

4 SUBCHAPTER Y-1. MAINTENANCE, STORAGE, ADMINISTRATION, AND
5 DISPOSAL OF EPINEPHRINE AUTO-INJECTORS

6 Sec. 51.881. DEFINITIONS. In this subchapter:

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

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

12 (3) "Campus" means an educational unit under the
13 management and control of an institution of higher education and
14 may include, in addition to the main campus, off-campus and
15 secondary locations, such as branch campuses, teaching locations,
16 and regional centers.

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

21 (5) "Institution of higher education" has the meaning
22 assigned by Section 61.003.

23 (6) "Personnel" means employees of an institution of
24 higher education.

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

27 Sec. 51.882. MAINTENANCE, STORAGE, ADMINISTRATION, AND

1 DISPOSAL OF EPINEPHRINE AUTO-INJECTORS. (a) Each institution of
2 higher education may adopt and implement a policy regarding the
3 maintenance, storage, administration, and disposal of epinephrine
4 auto-injectors on the institution's campus.

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

6 (1) must provide that personnel or volunteers who are
7 authorized and trained may administer an epinephrine auto-injector
8 to a person who is reasonably believed to be experiencing
9 anaphylaxis on the institution's campus; and

10 (2) may provide that personnel or volunteers who are
11 authorized and trained may administer an epinephrine auto-injector
12 to a person who is reasonably believed to be experiencing
13 anaphylaxis at an off-campus event or while in transit to or from an
14 off-campus event sponsored by the institution of higher education.

15 (c) The commissioner of state health services with advice
16 from the advisory committee shall adopt rules regarding the
17 maintenance, storage, administration, and disposal of an
18 epinephrine auto-injector on the campus of an institution of
19 higher education subject to a policy adopted under Subsection (a).

20 The rules must establish:

21 (1) the number of epinephrine auto-injectors
22 available at each campus;

23 (2) the process for each institution of higher
24 education to check the inventory of epinephrine auto-injectors at
25 regular intervals for expiration and replacement; and

26 (3) the amount of training required for personnel or
27 volunteers to administer an epinephrine auto-injector.

1 (d) Each institution of higher education that adopts a
2 policy under Subsection (a) must require that the institution's
3 campuses have personnel or volunteers authorized and trained to
4 administer an epinephrine auto-injector present.

5 (e) The supply of epinephrine auto-injectors at a campus
6 must be stored in a secure location and be easily accessible to
7 personnel or volunteers authorized and trained to administer an
8 epinephrine auto-injector.

9 Sec. 51.883. REPORT ON ADMINISTERING EPINEPHRINE
10 AUTO-INJECTOR. (a) Not later than the 10th business day after the
11 date a personnel member or volunteer administers an epinephrine
12 auto-injector in accordance with a policy adopted under Section
13 51.882(a), the institution of higher education shall report the
14 information required under Subsection (b) to:

15 (1) the physician who prescribed the epinephrine
16 auto-injector; and

17 (2) the commissioner of state health services.

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

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

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

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

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

1 administered;

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

4 (6) any other information required by the commissioner
5 of state health services.

6 Sec. 51.884. TRAINING. (a) Each institution of higher
7 education that adopts a policy under Section 51.882(a) is
8 responsible for training personnel or volunteers in the
9 administration of an epinephrine auto-injector.

10 (b) Training required under this section must:

11 (1) include information on:

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

14 (B) administering an epinephrine auto-injector;

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

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

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

21 (c) Each institution of higher education that adopts a
22 policy under Section 51.882(a) shall maintain records on the
23 training required under this section.

24 Sec. 51.885. PRESCRIPTION OF EPINEPHRINE AUTO-INJECTORS.

25 (a) A physician may prescribe epinephrine auto-injectors in the
26 name of an institution of higher education that adopts a policy
27 under Section 51.882(a). The physician shall provide the

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

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

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

11 (1) periodically reviews the order; and

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

14 (d) An order issued under this section must contain:

15 (1) the name and signature of the prescribing
16 physician;

17 (2) the name of the institution of higher education to
18 which the order is issued;

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

21 (4) the date of issue.

22 (e) A pharmacist may dispense an epinephrine auto-injector
23 to an institution of higher education without requiring the name or
24 any other identifying information relating to the user.

25 Sec. 51.886. GIFTS, GRANTS, AND DONATIONS. An institution
26 of higher education may accept gifts, grants, donations, and
27 federal funds to implement this subchapter.

1 Sec. 51.887. RULES. Except as otherwise provided by this
2 subchapter, the commissioner of state health services shall adopt
3 rules necessary to implement this subchapter.

4 Sec. 51.888. IMMUNITY FROM LIABILITY. (a) A person who in
5 good faith takes, or fails to take, any action under this subchapter
6 is immune from civil or criminal liability or disciplinary action
7 resulting from that act or failure to act, including:

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

9 (2) supervising or delegating the administration of an
10 epinephrine auto-injector;

11 (3) possessing an epinephrine auto-injector;

12 (4) maintaining an epinephrine auto-injector;

13 (5) storing an epinephrine auto-injector;

14 (6) disposing of an epinephrine auto-injector;

15 (7) prescribing an epinephrine auto-injector;

16 (8) dispensing an epinephrine auto-injector;

17 (9) administering, or assisting in administering, an
18 epinephrine auto-injector;

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

22 (11) undertaking any other act permitted or required
23 under this subchapter.

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

26 (c) Notwithstanding any other law, this subchapter does not
27 create a civil, criminal, or administrative cause of action or

1 liability or create a standard of care, obligation, or duty that
2 provides the basis for a cause of action for an act or omission
3 under this subchapter.

4 (d) An institution of higher education or a campus of an
5 institution of higher education is immune from suit resulting from
6 an act, or failure to act, under this subchapter, including an act
7 or failure to act under related policies and procedures.

8 (e) A cause of action does not arise from an act or omission
9 described by this section.

10 SECTION 4. This Act applies beginning with the 2018 spring
11 semester.

12 SECTION 5. This Act takes effect September 1, 2017.