

By: Howard

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; and

1 (3) at least one member is an employee of an
2 institution of higher education.

3 (e) In this section, "institution of higher education" has
4 the meaning assigned by Section 61.003.

5 SECTION 2. Section 38.207, Education Code, is amended to
6 read as follows:

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

10 (1) the storage and maintenance of epinephrine
11 auto-injectors on school campuses and campuses of institutions of
12 higher education;

13 (2) the training of [~~school~~] personnel and [~~school~~]
14 volunteers at schools and institutions of higher education in the
15 administration of an epinephrine auto-injector; and

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

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

23 SUBCHAPTER Y-1. MAINTENANCE AND ADMINISTRATION OF EPINEPHRINE

24 AUTO-INJECTORS

25 Sec. 51.881. DEFINITIONS. In this subchapter:

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

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

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

8 (4) "Institution of higher education" has the meaning
9 assigned by Section 61.003.

10 (5) "Personnel" means employees of an institution of
11 higher education.

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

14 Sec. 51.882. MAINTENANCE AND ADMINISTRATION OF EPINEPHRINE
15 AUTO-INJECTORS. (a) Each institution of higher education may
16 adopt and implement a policy regarding the maintenance,
17 administration, and disposal of epinephrine auto-injectors on the
18 institution's campus.

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

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

24 (2) may provide that personnel who are authorized and
25 trained may administer an epinephrine auto-injector to a person who
26 is reasonably believed to be experiencing anaphylaxis at an
27 off-campus event sponsored by the institution of higher education.

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

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

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

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

14 (d) Each institution of higher education that adopts a
15 policy under Subsection (a) must require that the institution's
16 campuses have personnel authorized and trained to administer an
17 epinephrine auto-injector present.

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

22 Sec. 51.883. REPORT ON ADMINISTERING EPINEPHRINE
23 AUTO-INJECTOR. (a) Not later than the 10th business day after the
24 date a personnel member administers an epinephrine auto-injector in
25 accordance with a policy adopted under Section 51.882(a), the
26 institution of higher education shall report the information
27 required under Subsection (b) to:

1 (1) the Texas Higher Education Coordinating Board;

2 (2) the physician who prescribed the epinephrine
3 auto-injector; and

4 (3) the commissioner of state health services.

5 (b) The report required under this section must include the
6 following information:

7 (1) the age of the person who received the
8 administration of the epinephrine auto-injector;

9 (2) whether the person who received the administration
10 of the epinephrine auto-injector was a student, a personnel member,
11 or a visitor;

12 (3) the physical location where the epinephrine
13 auto-injector was administered;

14 (4) the number of doses of epinephrine auto-injector
15 administered;

16 (5) the title of the person who administered the
17 epinephrine auto-injector; and

18 (6) any other information required by the Texas Higher
19 Education Coordinating Board.

20 Sec. 51.884. TRAINING. (a) Each institution of higher
21 education that adopts a policy under Section 51.882(a) is
22 responsible for training personnel in the administration of an
23 epinephrine auto-injector.

24 (b) Training required under this section must:

25 (1) include information on:

26 (A) recognizing the signs and symptoms of
27 anaphylaxis;

1 (B) administering an epinephrine auto-injector;
2 (C) implementing emergency procedures, if
3 necessary, after administering an epinephrine auto-injector; and
4 (D) properly disposing of used or expired
5 epinephrine auto-injectors; and

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

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

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

12 (a) A physician may prescribe epinephrine auto-injectors in the
13 name of an institution of higher education that adopts a policy
14 under Section 51.882(a). The physician shall provide the
15 institution with a standing order for the administration of an
16 epinephrine auto-injector to a person reasonably believed to be
17 experiencing anaphylaxis.

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

22 (c) Notwithstanding any other provisions of law,
23 supervision or delegation by a physician is considered adequate if
24 the physician:

25 (1) periodically reviews the order; and
26 (2) is available through direct telecommunication as
27 needed for consultation, assistance, and direction.

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

2 (1) the name and signature of the prescribing
3 physician;

4 (2) the name of the institution of higher education to
5 which the order is issued;

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

8 (4) the date of issue.

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

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

15 Sec. 51.887. RULES. Except as otherwise provided by this
16 subchapter, the Texas Higher Education Coordinating Board and the
17 commissioner of state health services shall jointly adopt rules
18 necessary to implement this subchapter.

19 Sec. 51.888. IMMUNITY FROM LIABILITY. (a) Except in a case
20 of reckless conduct or intentional, wilful, or wanton misconduct, a
21 person is immune from civil or criminal liability or disciplinary
22 action for any conduct permitted or required under this subchapter,
23 including:

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

25 (2) supervising or delegating the administration of an
26 epinephrine auto-injector;

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 administering, an
4 epinephrine auto-injector;

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

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

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

12 (c) Notwithstanding any other law, this subchapter does not
13 create a cause of action or liability against personnel for the use
14 of an epinephrine auto-injector as provided by this subchapter.

15 SECTION 4. This Act applies beginning with the 2017 fall
16 semester.

17 SECTION 5. This Act takes effect immediately if it receives
18 a vote of two-thirds of all the members elected to each house, as
19 provided by Section 39, Article III, Texas Constitution. If this
20 Act does not receive the vote necessary for immediate effect, this
21 Act takes effect September 1, 2017.