

By: Klick

H.B. No. 3893

A BILL TO BE ENTITLED

AN ACT

1
2 relating to the prescription of epinephrine auto-injectors to and
3 administration of epinephrine auto-injectors in day-care centers;
4 limiting liability.

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

6 SECTION 1. Subchapter C, Chapter 42, Human Resources Code,
7 is amended by adding Section 42.066 to read as follows:

8 Sec. 42.066. EPINEPHRINE AUTO-INJECTORS. (a) In this
9 section:

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

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

17 (3) "Physician" means a person who holds a license to
18 practice medicine in this state.

19 (b) A physician, or a person who has been delegated
20 prescriptive authority under Chapter 157, Occupations Code, may
21 prescribe epinephrine auto-injectors in the name of a day-care
22 center.

23 (c) A physician or other person who prescribes epinephrine
24 auto-injectors under Subsection (b) shall provide the day-care

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

4 (d) A standing order under Subsection (c) is not required to
5 be patient-specific. An epinephrine auto-injector may be
6 administered under this section to a person without a previously
7 established physician-patient relationship.

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

10 (1) periodically reviews the order; and

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

13 (f) An order issued under this section must contain:

14 (1) the name and signature of the prescribing
15 physician or other person;

16 (2) the name of the day-care center to which the order
17 is issued;

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

20 (4) the date the order was issued.

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

24 (h) Each day-care center is responsible for training
25 personnel in the administration of an epinephrine auto-injector.

26 The training must:

27 (1) include information on:

1 (A) recognizing the signs and symptoms of
2 anaphylaxis;

3 (B) administering an epinephrine auto-injector;

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

6 (D) properly disposing of used or expired
7 epinephrine auto-injectors; and

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

10 (i) Each day-care center shall maintain records on the
11 training required under this section.

12 (j) A person who in good faith takes, or fails to take,
13 action relating to the prescription of an epinephrine auto-injector
14 to a day-care center or the administration of an epinephrine
15 auto-injector in a day-care center is immune from civil or criminal
16 liability or disciplinary action resulting from that action or
17 failure to act, including:

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

19 (2) supervising or delegating the administration of an
20 epinephrine auto-injector;

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

23 (4) prescribing an epinephrine auto-injector;

24 (5) dispensing an epinephrine auto-injector;

25 (6) administering, or assisting in administering, an
26 epinephrine auto-injector;

27 (7) providing, or assisting in providing, training,

1 consultation, or advice in the development, adoption, or
2 implementation of policies, guidelines, rules, or plans; or

3 (8) undertaking any other act permitted or required
4 under this section.

5 (k) The immunities and protections provided by this section
6 are in addition to other immunities or limitations of liability
7 provided by law.

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

13 (m) An act or omission described by this section does not
14 create a cause of action.

15 SECTION 2. This Act takes effect immediately if it receives
16 a vote of two-thirds of all the members elected to each house, as
17 provided by Section 39, Article III, Texas Constitution. If this
18 Act does not receive the vote necessary for immediate effect, this
19 Act takes effect September 1, 2017.