

1-1 By: Menéndez S.B. No. 1367  
1-2 (In the Senate - Filed March 6, 2017; March 16, 2017, read  
1-3 first time and referred to Committee on Higher Education;  
1-4 April 24, 2017, reported adversely, with favorable Committee  
1-5 Substitute by the following vote: Yeas 7, Nays 0; April 24, 2017,  
1-6 sent to printer.)

1-7 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-8				
1-9	X			
1-10	X			
1-11	X			
1-12	X			
1-13	X			
1-14	X			
1-15	X			

1-16 COMMITTEE SUBSTITUTE FOR S.B. No. 1367 By: Menéndez

1-17 A BILL TO BE ENTITLED  
1-18 AN ACT

1-19 relating to policies and training regarding the use of epinephrine  
1-20 auto-injectors by public institutions of higher education;  
1-21 providing immunity.

1-22 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-23 SECTION 1. Section 38.202, Education Code, is amended by  
1-24 amending Subsections (a) and (b) and adding Subsection (e) to read  
1-25 as follows:

1-26 (a) The commissioner of state health services shall  
1-27 establish an advisory committee to examine and review the  
1-28 administration of epinephrine auto-injectors to a person  
1-29 experiencing an anaphylactic reaction on a campus of a school  
1-30 district, ~~or~~ an open-enrollment charter school, or an institution  
1-31 of higher education.

1-32 (b) The advisory committee shall be composed of members  
1-33 appointed by the commissioner of state health services. In making  
1-34 appointments, the commissioner shall ensure that:

1-35 (1) a majority of the members are physicians with  
1-36 expertise in treating anaphylaxis, including physicians who  
1-37 specialize in the fields of pediatrics, allergies, asthma, and  
1-38 immunology; ~~and~~

1-39 (2) at least one member is a registered nurse employed  
1-40 by a school district or open-enrollment charter school as a school  
1-41 nurse;

1-42 (3) at least one member is an employee of a general  
1-43 academic teaching institution; and

1-44 (4) at least one member is an employee of a public  
1-45 junior college or a public technical institute.

1-46 (e) In this section, "general academic teaching  
1-47 institution," "institution of higher education," "public junior  
1-48 college," and "public technical institute" have the meanings  
1-49 assigned by Section 61.003.

1-50 SECTION 2. Section 38.207, Education Code, is amended to  
1-51 read as follows:

1-52 Sec. 38.207. ADVISORY COMMITTEE: DUTIES. The advisory  
1-53 committee shall advise the commissioner of state health services  
1-54 on:

1-55 (1) the storage and maintenance of epinephrine  
1-56 auto-injectors on school campuses and campuses of institutions of  
1-57 higher education;

1-58 (2) the training of ~~school~~ personnel and ~~school~~  
1-59 volunteers at schools and institutions of higher education in the  
1-60 administration of an epinephrine auto-injector; and

2-1 (3) a plan for one or more [~~school~~] personnel members  
2-2 or [~~school~~] volunteers of a school or an institution of higher  
2-3 education trained in the administration of an epinephrine  
2-4 auto-injector to be on each [~~school~~] campus of a school or an  
2-5 institution of higher education.

2-6 SECTION 3. Chapter 51, Education Code, is amended by adding  
2-7 Subchapter Y-1 to read as follows:

2-8 SUBCHAPTER Y-1. MAINTENANCE, STORAGE, ADMINISTRATION, AND  
2-9 DISPOSAL OF EPINEPHRINE AUTO-INJECTORS

2-10 Sec. 51.881. DEFINITIONS. In this subchapter:

2-11 (1) "Advisory committee" means the committee  
2-12 established under Section 38.202.

2-13 (2) "Anaphylaxis" means a sudden, severe, and  
2-14 potentially life-threatening allergic reaction that occurs when a  
2-15 person is exposed to an allergen.

2-16 (3) "Campus" means an educational unit under the  
2-17 management and control of an institution of higher education and  
2-18 may include, in addition to the main campus, off-campus and  
2-19 secondary locations, such as branch campuses, teaching locations,  
2-20 and regional centers.

2-21 (4) "Epinephrine auto-injector" means a disposable  
2-22 medical drug delivery device that contains a premeasured single  
2-23 dose of epinephrine that is intended to be used to treat  
2-24 anaphylaxis.

2-25 (5) "Institution of higher education" has the meaning  
2-26 assigned by Section 61.003.

2-27 (6) "Personnel" means employees of an institution of  
2-28 higher education.

2-29 (7) "Physician" means a person who holds a license to  
2-30 practice medicine in this state.

2-31 Sec. 51.882. MAINTENANCE, STORAGE, ADMINISTRATION, AND  
2-32 DISPOSAL OF EPINEPHRINE AUTO-INJECTORS. (a) Each institution of  
2-33 higher education may adopt and implement a policy regarding the  
2-34 maintenance, storage, administration, and disposal of epinephrine  
2-35 auto-injectors on the institution's campus.

2-36 (b) If a policy is adopted under Subsection (a), the policy:

2-37 (1) must provide that personnel or volunteers who are  
2-38 authorized and trained may administer an epinephrine auto-injector  
2-39 to a person who is reasonably believed to be experiencing  
2-40 anaphylaxis on the institution's campus; and

2-41 (2) may provide that personnel or volunteers who are  
2-42 authorized and trained may administer an epinephrine auto-injector  
2-43 to a person who is reasonably believed to be experiencing  
2-44 anaphylaxis at an off-campus event or while in transit to or from an  
2-45 off-campus event sponsored by the institution of higher education.

2-46 (c) The commissioner of state health services with advice  
2-47 from the advisory committee shall adopt rules regarding the  
2-48 maintenance, storage, administration, and disposal of an  
2-49 epinephrine auto-injector on the campus of an institution of  
2-50 higher education subject to a policy adopted under Subsection (a).  
2-51 The rules must establish:

2-52 (1) the number of epinephrine auto-injectors  
2-53 available at each campus;

2-54 (2) the process for each institution of higher  
2-55 education to check the inventory of epinephrine auto-injectors at  
2-56 regular intervals for expiration and replacement; and

2-57 (3) the amount of training required for personnel or  
2-58 volunteers to administer an epinephrine auto-injector.

2-59 (d) Each institution of higher education that adopts a  
2-60 policy under Subsection (a) must require that the institution's  
2-61 campuses have personnel or volunteers authorized and trained to  
2-62 administer an epinephrine auto-injector present.

2-63 (e) The supply of epinephrine auto-injectors at a campus  
2-64 must be stored in a secure location and be easily accessible to  
2-65 personnel or volunteers authorized and trained to administer an  
2-66 epinephrine auto-injector.

2-67 Sec. 51.883. REPORT ON ADMINISTERING EPINEPHRINE  
2-68 AUTO-INJECTOR. (a) Not later than the 10th business day after the  
2-69 date a personnel member or volunteer administers an epinephrine

3-1 auto-injector in accordance with a policy adopted under Section  
3-2 51.882(a), the institution of higher education shall report the  
3-3 information required under Subsection (b) to:

3-4 (1) the physician who prescribed the epinephrine  
3-5 auto-injector; and

3-6 (2) the commissioner of state health services.

3-7 (b) The report required under this section must include the  
3-8 following information:

3-9 (1) the age of the person who received the  
3-10 administration of the epinephrine auto-injector;

3-11 (2) whether the person who received the administration  
3-12 of the epinephrine auto-injector was a student, a personnel member,  
3-13 or a visitor;

3-14 (3) the physical location where the epinephrine  
3-15 auto-injector was administered;

3-16 (4) the number of doses of epinephrine auto-injector  
3-17 administered;

3-18 (5) the title of the person who administered the  
3-19 epinephrine auto-injector; and

3-20 (6) any other information required by the commissioner  
3-21 of state health services.

3-22 Sec. 51.884. TRAINING. (a) Each institution of higher  
3-23 education that adopts a policy under Section 51.882(a) is  
3-24 responsible for training personnel or volunteers in the  
3-25 administration of an epinephrine auto-injector.

3-26 (b) Training required under this section must:

3-27 (1) include information on:

3-28 (A) recognizing the signs and symptoms of  
3-29 anaphylaxis;

3-30 (B) administering an epinephrine auto-injector;

3-31 (C) implementing emergency procedures, if  
3-32 necessary, after administering an epinephrine auto-injector; and

3-33 (D) properly disposing of used or expired  
3-34 epinephrine auto-injectors; and

3-35 (2) be provided in a formal training session or  
3-36 through online education and be completed annually.

3-37 (c) Each institution of higher education that adopts a  
3-38 policy under Section 51.882(a) shall maintain records on the  
3-39 training required under this section.

3-40 Sec. 51.885. PRESCRIPTION OF EPINEPHRINE AUTO-INJECTORS.

3-41 (a) A physician may prescribe epinephrine auto-injectors in the  
3-42 name of an institution of higher education that adopts a policy  
3-43 under Section 51.882(a). The physician shall provide the  
3-44 institution with a standing order for the administration of an  
3-45 epinephrine auto-injector to a person reasonably believed to be  
3-46 experiencing anaphylaxis.

3-47 (b) The standing order under Subsection (a) is not required  
3-48 to be patient-specific, and the epinephrine auto-injector may be  
3-49 administered to a person without an established physician-patient  
3-50 relationship.

3-51 (c) Notwithstanding any other provisions of law,  
3-52 supervision or delegation by a physician is considered adequate if  
3-53 the physician:

3-54 (1) periodically reviews the order; and

3-55 (2) is available through direct telecommunication as  
3-56 needed for consultation, assistance, and direction.

3-57 (d) An order issued under this section must contain:

3-58 (1) the name and signature of the prescribing  
3-59 physician;

3-60 (2) the name of the institution of higher education to  
3-61 which the order is issued;

3-62 (3) the quantity of epinephrine auto-injectors to be  
3-63 obtained and maintained under the order; and

3-64 (4) the date of issue.

3-65 (e) A pharmacist may dispense an epinephrine auto-injector  
3-66 to an institution of higher education without requiring the name or  
3-67 any other identifying information relating to the user.

3-68 Sec. 51.886. GIFTS, GRANTS, AND DONATIONS. An institution  
3-69 of higher education may accept gifts, grants, donations, and

4-1 federal funds to implement this subchapter.  
4-2 Sec. 51.887. RULES. Except as otherwise provided by this  
4-3 subchapter, the commissioner of state health services shall adopt  
4-4 rules necessary to implement this subchapter.  
4-5 Sec. 51.888. IMMUNITY FROM LIABILITY. (a) A person who in  
4-6 good faith takes, or fails to take, any action under this subchapter  
4-7 is immune from civil or criminal liability or disciplinary action  
4-8 resulting from that act or failure to act, including:  
4-9 (1) issuing an order for epinephrine auto-injectors;  
4-10 (2) supervising or delegating the administration of an  
4-11 epinephrine auto-injector;  
4-12 (3) possessing an epinephrine auto-injector;  
4-13 (4) maintaining an epinephrine auto-injector;  
4-14 (5) storing an epinephrine auto-injector;  
4-15 (6) disposing of an epinephrine auto-injector;  
4-16 (7) prescribing an epinephrine auto-injector;  
4-17 (8) dispensing an epinephrine auto-injector;  
4-18 (9) administering, or assisting in administering, an  
4-19 epinephrine auto-injector;  
4-20 (10) providing, or assisting in providing, training,  
4-21 consultation, or advice in the development, adoption, or  
4-22 implementation of policies, guidelines, rules, or plans; or  
4-23 (11) undertaking any other act permitted or required  
4-24 under this subchapter.  
4-25 (b) The immunity provided by Subsection (a) is in addition  
4-26 to other immunity or limitations of liability provided by law.  
4-27 (c) Notwithstanding any other law, this subchapter does not  
4-28 create a civil, criminal, or administrative cause of action or  
4-29 liability or create a standard of care, obligation, or duty that  
4-30 provides the basis for a cause of action for an act or omission  
4-31 under this subchapter.  
4-32 (d) An institution of higher education or a campus of an  
4-33 institution of higher education is immune from suit resulting from  
4-34 an act, or failure to act, under this subchapter, including an act  
4-35 or failure to act under related policies and procedures.  
4-36 (e) A cause of action does not arise from an act or omission  
4-37 described by this section.  
4-38 SECTION 4. This Act applies beginning with the 2018 spring  
4-39 semester.  
4-40 SECTION 5. This Act takes effect September 1, 2017.

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