By:  Menéndez S.B. No. 1827

(In the Senate - Filed March 7, 2019; March 18, 2019, read first time and referred to Committee on State Affairs; April 8, 2019, reported adversely, with favorable Committee Substitute by the following vote: Yeas 9, Nays 0; April 8, 2019, sent to printer.)

COMMITTEE VOTE

               Yea Nay Absent  PNV

Huffman         X

Hughes          X

Birdwell        X

Creighton       X

Fallon          X

Hall            X

Lucio           X

Nelson          X

Zaffirini       X

COMMITTEE SUBSTITUTE FOR S.B. No. 1827 By:  Nelson

A BILL TO BE ENTITLED

AN ACT

relating to the possession and emergency administration of an epinephrine auto-injector by law enforcement agencies and peace officers.

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

SECTION 1.  Chapter 1701, Occupations Code, is amended by adding Subchapter O to read as follows:

SUBCHAPTER O. EMERGENCY ADMINISTRATION OF EPINEPHRINE

Sec. 1701.701.  DEFINITIONS. In this subchapter:

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

(2)  "Epinephrine auto-injector" means a disposable medical drug delivery device that contains a premeasured single dose of epinephrine intended for use to treat anaphylaxis.

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

Sec. 1701.702.  ADMINISTRATION OF EPINEPHRINE. (a)  A law enforcement agency may acquire and possess epinephrine auto-injectors and a peace officer may possess and administer an epinephrine auto-injector in accordance with this subchapter.

(b)  The commission, in consultation with the Department of State Health Services, shall approve a training course on the administration of an epinephrine auto-injector.

Sec. 1701.703.  PRESCRIPTION OF EPINEPHRINE. (a)  A physician, or a person who has been delegated prescriptive authority under Chapter 157, Occupations Code, may prescribe epinephrine auto-injectors in the name of a law enforcement agency.

(b)  A physician or other person who prescribes epinephrine auto-injectors under Subsection (a) shall provide the law enforcement agency with a standing order for the administration of an epinephrine auto-injector to a person reasonably believed to be experiencing anaphylaxis.

(c)  A standing order under Subsection (b) is not required to be patient-specific. An epinephrine auto-injector may be administered under this subchapter to a person without a previously established physician-patient relationship.

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

(1)  periodically reviews the order; and

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

(e)  An order issued under this section must contain:

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

(2)  the name of the law enforcement agency to which the order is issued;

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

(4)  the date the order was issued.

(f)  A pharmacist may dispense an epinephrine auto-injector to a law enforcement agency without requiring the name of or any other identifying information relating to the user.

Sec. 1701.704.  REPORT ON ADMINISTERING EPINEPHRINE AUTO-INJECTOR. The commission, in consultation with the Department of State Health Services, shall develop reporting requirements concerning a peace officer's administration of an epinephrine auto-injector to a person under this subchapter.

Sec. 1701.705.  NOT PRACTICE OF HEALTH CARE. The administration by a peace officer of an epinephrine auto-injector to a person in accordance with the requirements of this subchapter or commission rules does not constitute the unlawful practice of any health care profession.

Sec. 1701.706.  IMMUNITY FROM LIABILITY. (a)  A person who in good faith takes, or fails to take, action relating to the prescription of an epinephrine auto-injector to a law enforcement agency or the administration of an epinephrine auto-injector by a peace officer is immune from civil or criminal liability or disciplinary action resulting from that action or failure to act, including:

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

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

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

(4)  prescribing an epinephrine auto-injector;

(5)  dispensing an epinephrine auto-injector;

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

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

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

(b)  The immunities and protections provided by this subchapter are in addition to other immunities or limitations of liability provided by law.

(c)  Notwithstanding any other law, this subchapter 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 subchapter.

(d)  An act or omission described by this subchapter does not create a cause of action.

Sec. 1701.707.  GOVERNMENTAL IMMUNITY NOT WAIVED. This subchapter does not waive governmental immunity from suit or liability.

SECTION 2.  As soon as practicable after the effective date of this Act, the Texas Commission on Law Enforcement shall approve a training course consistent with Section 1701.702, Occupations Code, as added by this Act, and develop reporting requirements consistent with Section 1701.704, Occupations Code, as added by this Act.

SECTION 3.  This Act takes effect September 1, 2019.

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