

AN ACT

relating to the possession and administration of epinephrine auto-injectors in day-care centers; limiting liability.

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

SECTION 1. Subchapter C, Chapter 42, Human Resources Code, is amended by adding Section 42.067 to read as follows:

Sec. 42.067. EPINEPHRINE AUTO-INJECTORS; IMMUNITY FROM LIABILITY. (a) In this section:

(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.

(b) 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 day-care center.

(c) A physician or other person who prescribes epinephrine auto-injectors under Subsection (b) shall provide the day-care center with a standing order for the administration of an epinephrine auto-injector to a person reasonably believed to be

1 experiencing anaphylaxis.

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

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

8 (1) periodically reviews the order; and

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

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

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

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

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

18 (4) the date the order was issued.

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

22 (h) A day-care center shall store an epinephrine  
23 auto-injector in a secure location that is easily accessible to  
24 employees or volunteers of the day-care center authorized and  
25 trained to administer an epinephrine auto-injector.

26 (i) Each day-care center is responsible for training  
27 employees in the administration of an epinephrine auto-injector.

1 The training must:

2 (1) include information on:

3 (A) recognizing the signs and symptoms of  
4 anaphylaxis;

5 (B) administering an epinephrine auto-injector;

6 (C) the recommended dosages for adults and  
7 children by age and weight, if applicable, and the dosages  
8 available at the center;

9 (D) implementing emergency procedures, if  
10 necessary, after administering an epinephrine auto-injector; and

11 (E) the proper disposal of used or expired  
12 epinephrine auto-injectors; and

13 (2) be completed annually in a formal training session  
14 or through online education.

15 (j) Each day-care center shall maintain records on the  
16 training required under this section.

17 (k) Not later than the 10th business day after the date a  
18 day-care center employee administers an epinephrine auto-injector  
19 in accordance with this section, the day-care center shall report  
20 the following information to the persons listed in Subsection (l):

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

23 (2) whether the person who received the administration  
24 of the epinephrine auto-injector was:

25 (A) a child enrolled in the day-care center;

26 (B) a day-care center employee or volunteer; or

27 (C) a visitor to the day-care center;

1           (3) the physical location where the epinephrine  
2 auto-injector was administered;

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

5           (5) the title of the employee who administered the  
6 epinephrine auto-injector; and

7           (6) any other information required by the executive  
8 commissioner.

9           (1) The information required by Subsection (k) shall be  
10 reported to:

11           (1) the owner of the day-care center;

12           (2) the physician or other person who prescribed the  
13 epinephrine auto-injector;

14           (3) the commission; and

15           (4) the Department of State Health Services.

16           (m) The executive commissioner, in consultation with the  
17 Department of State Health Services, shall adopt rules necessary to  
18 implement this section.

19           (n) A person who in good faith takes, or fails to take,  
20 action relating to the prescription of an epinephrine auto-injector  
21 to a day-care center or the administration of an epinephrine  
22 auto-injector in a day-care center is immune from civil or criminal  
23 liability or disciplinary action resulting from that action or  
24 failure to act, including:

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

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

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

3           (4) prescribing an epinephrine auto-injector;

4           (5) dispensing an epinephrine auto-injector;

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

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

10           (8) undertaking any other act permitted or required  
11 under this section.

12           (o) The immunities and protections provided by this section  
13 are in addition to other immunities or limitations of liability  
14 provided by law.

15           (p) Notwithstanding any other law, this section does not  
16 create a civil, criminal, or administrative cause of action or  
17 liability or create a standard of care, obligation, or duty that  
18 provides a basis for a cause of action for an act or omission under  
19 this section.

20           (q) If a day-care center obtains epinephrine auto-injectors  
21 for use as authorized by this section, the day-care center shall  
22 notify each parent of a child enrolled in the center of the center's  
23 policy and procedures relating to the administration of the  
24 epinephrine auto-injectors.

25           (r) An act or omission described by this section does not  
26 create a cause of action.

27           SECTION 2. This Act takes effect immediately if it receives

H.B. No. 1849

1 a vote of two-thirds of all the members elected to each house, as  
2 provided by Section 39, Article III, Texas Constitution. If this  
3 Act does not receive the vote necessary for immediate effect, this  
4 Act takes effect September 1, 2019.

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President of the Senate

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Speaker of the House

I certify that H.B. No. 1849 was passed by the House on April 2, 2019, by the following vote: Yeas 147, Nays 0, 1 present, not voting.

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Chief Clerk of the House

I certify that H.B. No. 1849 was passed by the Senate on May 22, 2019, by the following vote: Yeas 31, Nays 0.

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Secretary of the Senate

APPROVED: \_\_\_\_\_

Date

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Governor