

By: Menéndez

S.B. No. 1735

A BILL TO BE ENTITLED

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

24 The training must:

25 (1) include information on:

26 (A) the signs and symptoms of anaphylaxis;

27 (B) the administration of an epinephrine

1 auto-injector;

2 (C) the recommended dosages for adults and
3 children by age and weight, if applicable, and the dosages
4 available at the center;

5 (D) the implementation of emergency procedures,
6 if necessary, after administering an epinephrine auto-injector;
7 and

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

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

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

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

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

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

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

25 (4) prescribing an epinephrine auto-injector;

26 (5) dispensing an epinephrine auto-injector;

27 (6) administering, or assisting in administering, an

1 epinephrine auto-injector;

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

5 (8) undertaking any other act permitted or required
6 under this section.

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

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

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

17 SECTION 2. 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, 2019.