

BILL ANALYSIS

Senate Research Center

S.B. 66
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Education
2/18/2015
As Filed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Anaphylaxis is a severe allergic reaction that is rapid in onset and includes a wide range of potentially life-threatening symptoms. These symptoms can occur in many combinations and are highly unpredictable. Symptoms can occur immediately or up to two hours after exposure to an allergen and may include skin reactions, constriction of the airways, swelling of the tongue and throat, a weak and rapid pulse, nausea, dizziness, and fainting.

Food allergies are among the most common medical conditions affecting children in the United States, and are also the most common cause of anaphylaxis among children. Current estimates are that 1 in 13 children have food allergies, and about 40 percent of those have had a severe allergic reaction. More alarmingly, 25 percent of anaphylactic reactions in schools occur among students without a previous food allergy diagnosis.

Primary treatment of anaphylaxis consists of administration of epinephrine as soon as the reaction is identified. Failure to treat anaphylaxis with epinephrine within minutes is a major risk factor for fatality from anaphylaxis.

The problem is that public schools are not currently required to have the necessary, unassigned epinephrine auto-injectors available to treat individuals suffering from anaphylaxis who may have an undiagnosed food allergy and are without a prescribed (assigned) epinephrine auto-injector.

S.B. 66 requires Texas public and open-enrollment charter schools to have unassigned epinephrine auto-injectors available on campus and at school events to treat anaphylaxis, and to have staff who are well trained in how to recognize and respond to it.

S.B. 66 requires the commissioner of state health services, in consultation with the commissioner of education and an advisory committee composed of physicians with expertise in treating anaphylaxis, to adopt rules for school districts to use in carrying out this policy. The rules will establish:

- The quantity of epinephrine auto-injectors to be stored at each campus, including a requirement that stock inventory be checked at regular intervals for expiration and replacement;
- The level of training required for school personnel in the administration of an epinephrine auto-injector; and
- A requirement at each campus for having one or more trained school personnel on campus during all operating hours.

As proposed, S.B. 66 amends current law relating to the use of epinephrine auto-injectors on public and open-enrollment charter school campuses and at off-campus school-sanctioned events.

RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to the commissioner of state health services in SECTION 1 (Section 38.0152) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Subchapter A, Chapter 38, Education Code, by adding Section 38.0152, as follows:

Sec. 38.0152. MAINTENANCE OF SUPPLY OF EPINEPHRINE AUTO-INJECTORS; PRESCRIBING; TRAINING; AND ADMINISTRATION. (a) Defines "anaphylaxis," "epinephrine auto-injector," "open-enrollment charter school," "physician," and "type of individual."

(b) Requires each school district and open-enrollment charter school to adopt and implement a policy consistent with the requirements of this section for the possession, administration, and disposal of epinephrine auto-injectors at every campus within the school district or open-enrollment charter school, so that the epinephrine auto-injector may be administered by an authorized and trained school employee to an individual on the campus or at an off-campus school-sanctioned event who is reasonably believed to be experiencing anaphylaxis.

(c)(1) Requires the commissioner of state health services to establish within the Department of State Health Services an advisory committee on the use of epinephrine auto-injectors on undesignated individuals on the campus of a school district or an open-enrollment charter school, or at an off-campus school-sanctioned event.

(2) Requires the commissioner of state health services to appoint the members of the advisory committee.

(3) Requires the advisory committee to advise the commissioner of state health services on the storage of epinephrine auto-injectors on school campuses as provided in Subsection (d)(1); the maintenance of epinephrine auto-injectors while in transit to or from an off-campus school-sanctioned event as provided in Subsection (d)(1); the training of school employees as provided in Subsection (d)(2); and a plan at each campus for having one or more trained employees as provided in Subsection (d)(3).

(4) Requires the advisory committee to include physicians with expertise in treating anaphylaxis, including physicians who specialize in the fields of pediatrics, allergy, asthma, and immunology.

(5) Requires the advisory committee to elect a presiding officer.

(6) Provides that members of the advisory committee serve without compensation but are entitled to reimbursement for the members' travel expenses as provided by Chapter 660 (Travel Expenses), Government Code, and the General Appropriations Act.

(7) Provides that an advisory committee member serves at the pleasure of the commissioner of state health services.

(8) Requires a vacancy on the advisory committee to be filled by the commissioner of state health services in the same manner as other appointments to the advisory committee.

(9) Provides that Chapter 2110 (State Agency Advisory Committees) Government Code, does not apply to the advisory committee formed under this subsection.

(10) Provides that meetings of the advisory committee are subject to Chapter 551 (Open Meetings), Government Code.

(d) Requires the commissioner of state health services, in consultation with the commissioner of education, and after consideration of advice from the advisory committee described in Subsection (c), to adopt rules for school districts and open-enrollment charter schools to use in the development of the policy described in Subsection (b). Requires that the rules establish:

(1) the quantity of epinephrine auto-injectors to be stored at each campus or maintained while in transit to or from an off-campus school-sanctioned event and a requirement that stock inventory be checked at regular intervals for expiration and replacement;

(2) the level of training required for school employees in the administration of an epinephrine auto-injector to an individual who is reasonably believed to be experiencing anaphylaxis; and

(3) a requirement at each campus for having present, during all operating hours, one or more trained school employees described in Subsection (f).

(e) Requires that training described in Subsection (d)(2) include information regarding how to recognize the signs and symptoms of anaphylaxis; administer an epinephrine auto-injector; implement emergency procedures, if necessary, after administering an epinephrine auto-injector; and properly dispose of used or expired epinephrine auto-injectors; be obtained in formal training sessions or through online education; and be completed annually.

(f) Requires each school district and open-enrollment charter school to be responsible for ensuring that school employees identified by the district or the open-enrollment charter school on each campus, or at an off-campus school-sanctioned event, are trained as described in Subsection (e) to administer an epinephrine auto-injector to an individual on the campus or at an off-campus school-sanctioned event who is reasonably believed to be experiencing anaphylaxis. Requires each school district and open-enrollment charter school to maintain records on the training of such employees.

(g) Requires each school district and open-enrollment charter school to maintain at each campus in the district or of the open-enrollment charter school a supply of epinephrine auto-injectors that may be administered by a school employee who is trained as described in Subsection (e) to an individual on a campus in the district or of the open-enrollment charter school, or at an off-campus school-sanctioned event, who is reasonably believed to be experiencing anaphylaxis. Requires the school district or open-enrollment charter school, as appropriate, to be responsible for checking stock inventory of such epinephrine auto-injectors at regular intervals for expiration and replacement. Requires the school district or the open-enrollment charter school, in determining the number of epinephrine auto-injectors to be kept for such purpose on a campus, to follow the rules described in Subsection (d).

(h) Requires that the supply of epinephrine auto-injectors at each campus be stored in a secure location or maintained securely while in transit to or from an off-campus school-sanctioned event, and be easily accessible to trained school employees.

(i)(1) Authorizes a physician to prescribe epinephrine auto-injectors in the name of a school district or open-enrollment charter school to be maintained for use when necessary. Requires the prescribing physician to provide the school district or open-enrollment charter school, as appropriate, a standing order for the administration of school-supplied epinephrine auto-injectors to undesignated individuals who are reasonably believed to be experiencing anaphylaxis. Requires that the order not be required to be patient-specific, and authorizes the administration to occur without a prior established physician-patient relationship. Provides that supervision or delegation by a physician, notwithstanding the provisions of other law regarding delegation or supervision, shall be adequate if the physician periodically reviews the order and is available through direct telecommunication as needed for consultation, assistance, and direction.

(2) Requires that an order issued under this subsection contain the name and signature of the physician described in Subdivision (1), the name of the school district or open-enrollment charter school to which the order is issued, the quantity of epinephrine auto-injectors to be obtained and maintained under the order, and the date of issue.

(j) Authorizes a pharmacist to dispense an epinephrine auto-injector under this section without the name of, or other identifying information relating to, the ultimate user.

(k) Authorizes school employees who have received the training described in Subsection (e) to obtain one or more epinephrine auto-injectors from the locations described in Subsection (h), or maintained while in transit to or from a school-sanctioned event as described in Subsection (h), in accordance with the provisions of this section, and administer such epinephrine auto-injectors in accordance with the provisions of this section.

(l)(1) Requires the school, no later than 10 business days after the administration of an epinephrine auto-injector by a school employee under the terms of this section, to report to the school district, or in the case of an open-enrollment charter school, requires the charter school to document, in a form and manner prescribed by the commissioner of education, the following information: age and type of individual receiving administration of the epinephrine auto-injector, physical location on or off campus where the epinephrine auto-injector was administered, number of doses administered, title of person administering the epinephrine auto-injector, and any other information required by the commissioner.

(2) Requires the school district or the open-enrollment charter school, Not later than 10 business days after the administration of an epinephrine auto-injector by a school employee under the terms of this section, to report the information described in Subdivision (1) to the physician described in Subsection (i), the commissioner of education, and the commissioner of state health services.

(m) Authorizes a school district or an open-enrollment charter school to each accept gifts, donations, grants, and federal and local funds for the support of that school district or open-enrollment charter school in carrying out the provisions of this section.

(n)(1) Requires the commissioner of education and the commissioner of state health services, except as provided by Subsection (d) or by Subdivision (2), to jointly adopt rules to implement this section. Requires that rules to implement Subsection (c) be adopted solely by the commissioner of state health services.

(o) Authorizes epinephrine auto-injectors to be administered as provided under this section on campus and at off-campus school-sanctioned events. Requires that the immunity provisions of this section apply in such cases.

(p) Provides that a person who in good faith takes, or fails to take, any of the following actions under this section is immune from liability in any criminal or disciplinary action and for civil damages as a result of that act or failure to act. Sets forth such actions in Subdivisions (1)-(9).

(q) Provides that the immunities and protections granted in this section are in addition to, and not in lieu of, immunity or protection provided pursuant to any other provisions of law.

(r) Provides that the school district or open-enrollment charter school shall not be required to comply with the requirements of this section, if a school district or open-enrollment charter school lacks the funding, or other forms of support as described in Subsection (m), that is necessary to meet the requirements of this section.

(s) Provides that the school district or open-enrollment charter school not be required to comply with the requirements of this section if a school district or open-enrollment charter school is unable to meet such requirements due to certain unanticipated conditions occurring.

(t) Requires that the immunities and protections granted in this section, notwithstanding the provisions of Subsections (r) and (s), continue in full force and effect.

(u) Provides that, notwithstanding any other law, this section does not create a civil, criminal, or administrative cause of action or a standard of care, obligation, or duty that provides a basis for a cause of action.

(v) Requires that the provisions of Subsection (u), notwithstanding the provisions of Subsections (r) and (s), to continue in full force and effect.

(w) Provides that a cause of action does not arise from an act or omission described by Subsection (p).

SECTION 2. Effective date: September 1, 2015.