

CHAPTER 348

EDUCATION - PUBLIC SCHOOLS

HOUSE BILL 13-1171

BY REPRESENTATIVE(S) Primavera, McCann, Melton, Ryden, Schafer, Singer, Tyler, Duran, Exum, Fields, Gardner, Gerou, Ginal, Hamner, Hullinghorst, Kraft-Tharp, Labuda, Landgraf, Lee, Levy, Pabon, Pettersen, Rosenthal, Salazar, Vigil, Williams, Young, Conti, Fischer, Moreno, Peniston, Waller;
also SENATOR(S) Todd, Aguilar, Giron, Guzman, Hudak, Jahn, Kefalas, Newell, Brophy, Heath, Nicholson.

AN ACT**CONCERNING THE USE OF EPINEPHRINE AUTO-INJECTORS IN EMERGENCY SITUATIONS IN SCHOOL SETTINGS.**

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. In Colorado Revised Statutes, 22-1-119.5, **amend** (6) and (8); and **add** (5.5) as follows:

22-1-119.5. Asthma, food allergy, and anaphylaxis health management - self-administered medication - staff-administered medication - rules - definitions. (5.5) (a) AS USED IN THIS SUBSECTION (5.5) AND IN SUBSECTION (6) OF THIS SECTION, UNLESS THE CONTEXT OTHERWISE REQUIRES:

(I) "ADMINISTER" OR "ADMINISTRATION" MEANS TO GIVE A DOSE OF MEDICINE TO A STUDENT WHO HAS ASTHMA OR A FOOD OR OTHER ALLERGY OR WHO IS EXPERIENCING ANAPHYLAXIS, INCLUDING THE USE OF AN EPINEPHRINE AUTO-INJECTOR, AN ASTHMA INHALER, OR ORAL MEDICATION.

(II) "DESIGNATED SCHOOL PERSONNEL" MEANS:

(A) AN EMPLOYEE IN A SCHOOL WHO HAS BEEN TRAINED ON THE ADMINISTRATION OF EPINEPHRINE AUTO-INJECTORS CONSISTENT WITH THE RULES ON ADMINISTRATION OF EPINEPHRINE AUTO-INJECTORS AND TO WHOM A SCHOOL NURSE HAS DELEGATED THE NURSING TASK OF ADMINISTERING EPINEPHRINE AUTO-INJECTORS TO STUDENTS; OR

(B) AN EMPLOYEE IN A SCHOOL WHO HAS BEEN TRAINED ON THE ADMINISTRATION

Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.

OF EPINEPHRINE AUTO-INJECTORS CONSISTENT WITH THE RULES ON ADMINISTRATION OF EPINEPHRINE AUTO-INJECTORS AND TO WHOM A NURSE HAS DELEGATED THE NURSING TASK OF ADMINISTERING EPINEPHRINE AUTO-INJECTORS TO STUDENTS OR HAS BEEN TRAINED BY A MEDICAL PROFESSIONAL LICENSED UNDER ARTICLE 36 OR ARTICLE 38 OF TITLE 12, C.R.S., AND TO WHOM THE LICENSEE HAS DELEGATED THE ADMINISTRATION OF EPINEPHRINE AUTO-INJECTORS UNDER THE AUTHORITY OF THAT PERSON'S LICENSE.

(III) "GOVERNING AUTHORITY OF A SCHOOL" MEANS A SCHOOL DISTRICT BOARD OF EDUCATION OF A PUBLIC SCHOOL, THE STATE CHARTER SCHOOL INSTITUTE FOR AN INSTITUTE CHARTER SCHOOL, OR THE GOVERNING BOARD OF A NONPUBLIC SCHOOL.

(IV) "PRESCRIPTION" MEANS ANY ORDER ISSUED IN WRITING, DATED AND SIGNED BY A PHYSICIAN LICENSED PURSUANT TO ARTICLE 36 OF TITLE 12, C.R.S., A PHYSICIAN ASSISTANT LICENSED IN ACCORDANCE WITH SECTION 12-36-107.4, C.R.S., OR AN ADVANCED PRACTICE NURSE WITH PRESCRIPTIVE AUTHORITY IN ACCORDANCE WITH SECTION 12-38-111.6, C.R.S.

(V) "SCHOOL" MEANS ANY PUBLIC OR NONPUBLIC SCHOOL.

(b) A GOVERNING AUTHORITY OF A SCHOOL MAY ADOPT AND IMPLEMENT A POLICY WHEREBY SCHOOLS UNDER ITS JURISDICTION MAY ACQUIRE AND MAINTAIN A STOCK SUPPLY OF EPINEPHRINE AUTO-INJECTORS.

(c) A GOVERNING AUTHORITY OF A SCHOOL MAY ADOPT A POLICY FOR SCHOOLS WITHIN ITS JURISDICTION TO AUTHORIZE THE SCHOOL NURSE OR OTHER DESIGNATED SCHOOL PERSONNEL TO ADMINISTER AN EPINEPHRINE AUTO-INJECTOR TO ANY STUDENT THAT THE SCHOOL NURSE OR DESIGNATED SCHOOL PERSONNEL IN GOOD FAITH BELIEVES IS EXPERIENCING ANAPHYLAXIS, IN ACCORDANCE WITH STANDING ORDERS AND PROTOCOLS FROM A LICENSED PHYSICIAN, PHYSICIAN ASSISTANT, OR ADVANCE PRACTICE NURSE WITH PRESCRIPTIVE AUTHORITY, REGARDLESS OF WHETHER THE STUDENT HAS A PRESCRIPTION FOR AN EPINEPHRINE AUTO-INJECTOR.

(d) A GOVERNING AUTHORITY OF A SCHOOL MAY ENTER INTO ARRANGEMENTS WITH MANUFACTURERS OF EPINEPHRINE AUTO-INJECTORS OR THIRD-PARTY SUPPLIERS OF EPINEPHRINE AUTO-INJECTORS TO OBTAIN EPINEPHRINE AUTO-INJECTORS AT FAIR-MARKET OR REDUCED PRICES OR FOR FREE.

(e) THE GOVERNING AUTHORITY OF A PUBLIC SCHOOL THAT DECIDES TO MAINTAIN A SUPPLY OF EPINEPHRINE AUTO-INJECTORS AS DESCRIBED IN THIS SUBSECTION (5.5) SHALL:

(I) IMPLEMENT A PLAN BASED ON THE RULES DEVELOPED PURSUANT TO SUBSECTION (8) OF THIS SECTION FOR THE MANAGEMENT OF STUDENTS WITH LIFE-THREATENING ALLERGIES ENROLLED IN SCHOOLS UNDER ITS JURISDICTION; AND

(II) MAKE SUCH PLAN AVAILABLE ON SUCH GOVERNING AUTHORITY'S WEB SITE OR THE WEB SITE OF EACH SCHOOL UNDER THE GOVERNING AUTHORITY'S JURISDICTION, OR IF SUCH WEB SITES DO NOT EXIST, MAKE SUCH PLAN AVAILABLE TO PARENTS AND OTHER INTERESTED PERSONS THROUGH OTHER PRACTICAL MEANS AS DETERMINED BY SUCH GOVERNING AUTHORITY.

(f) TO QUALIFY FOR THE PROTECTIONS IN SUBSECTION (6) OF THIS SECTION, THE GOVERNING AUTHORITY OF A NONPUBLIC SCHOOL THAT DECIDES TO MAINTAIN A SUPPLY OF EPINEPHRINE AUTO-INJECTORS AS DESCRIBED IN THIS SUBSECTION (5.5) MUST IMPLEMENT A PLAN BASED ON THE RULES ADOPTED BY THE STATE BOARD OF EDUCATION AS DESCRIBED IN SUBSECTION (8) OF THIS SECTION.

(g) THE DEPARTMENT OF EDUCATION SHALL DEVELOP AND PUBLISH AN ANNUAL REPORT COMPILING, SUMMARIZING, AND ANALYZING ALL INCIDENT REPORTS SUBMITTED TO THE DEPARTMENT PURSUANT TO PARAGRAPH (e) OF SUBSECTION (8) OF THIS SECTION.

(6) UNLESS THE DAMAGES WERE CAUSED BY WILLFUL OR WANTON CONDUCT OR DISREGARD OF THE CRITERIA OF AN APPROVED TREATMENT PLAN, if the provisions of this section are met, a school, school district, school district director, or school or school district employee ~~or a volunteer~~ not otherwise provided for under section 13-21-108, C.R.S., shall not be liable in a suit for damages as a result of an act or omission related to:

(a) A student's own use of the student's epinephrine auto-injector or any other medication contained in an approved treatment plan; ~~unless the damages were caused by willful or wanton conduct or disregard of the criteria of the treatment plan.~~ OR

(b) THE GOOD-FAITH ADMINISTRATION OF AN EPINEPHRINE AUTO-INJECTOR IN ACCORDANCE WITH A POLICY AND STANDING ORDERS AND PROTOCOLS ON THE ADMINISTRATION OF EPINEPHRINE AUTO-INJECTORS AS DESCRIBED IN PARAGRAPH (c) OF SUBSECTION (5.5) OF THIS SECTION AND PURSUANT TO A PLAN ADOPTED PURSUANT TO PARAGRAPH (e) OR (f) OF SUBSECTION (5.5) OF THIS SECTION.

(8) The state board of education, with assistance from the department of public health and environment, shall promulgate AND REVISE, AS NECESSARY, rules for treatment plans for the ~~self-administration of medications~~ MANAGEMENT OF STUDENTS WITH LIFE-THREATENING ALLERGIES pursuant to this section. THE STATE BOARD OF EDUCATION SHALL ADOPT RULES ON OR BEFORE DECEMBER 31, 2013, TO INCLUDE, BUT NOT BE LIMITED TO:

(a) EDUCATION AND TRAINING FOR SCHOOL NURSES AND DESIGNATED SCHOOL PERSONNEL ON THE MANAGEMENT OF STUDENTS WITH LIFE-THREATENING ALLERGIES, INCLUDING TRAINING RELATED TO THE ADMINISTRATION OF AN EPINEPHRINE AUTO-INJECTOR. IN DEVELOPING THE RULES ON EDUCATION AND TRAINING, THE STATE BOARD SHALL SOLICIT INPUT FROM AN ORGANIZATION THAT REPRESENTS SCHOOL NURSES.

(b) PROCEDURES FOR RESPONDING TO LIFE-THREATENING ALLERGIC REACTIONS;

(c) A PROCESS FOR THE DEVELOPMENT OF INDIVIDUALIZED HEALTH CARE AND ALLERGY ACTION PLANS FOR EVERY STUDENT WITH A KNOWN LIFE-THREATENING ALLERGY, INCLUDING THE SELF-ADMINISTRATION OF MEDICATIONS PURSUANT TO SUBSECTION (2) OF THIS SECTION;

(d) PROTOCOLS TO PREVENT EXPOSURE TO ALLERGENS;

(e) REQUIREMENTS FOR EACH SCHOOL TO SUBMIT, ON A FORM DEVELOPED BY THE DEPARTMENT OF EDUCATION, A REPORT OF EACH INCIDENT AT THE SCHOOL OR A RELATED-SCHOOL EVENT INVOLVING A SEVERE ALLERGIC REACTION OR THE ADMINISTRATION OF AN EPINEPHRINE AUTO-INJECTOR OR BOTH;

(f) REQUIREMENTS FOR SCHOOL NURSES IN SCHOOLS THAT HAVE ADOPTED A POLICY ALLOWING FOR THE ADMINISTRATION OF EPINEPHRINE AUTO-INJECTORS PURSUANT TO SUBSECTION (5.5) OF THIS SECTION TO REPORT TO THE DEPARTMENT WHETHER THE SCHOOL NURSE HAS TRAINED AND DESIGNATED ANY SCHOOL PERSONNEL TO ADMINISTER EPINEPHRINE AUTO-INJECTORS AND, IF SO, THE NUMBER OF EMPLOYEES IN THE SCHOOL OR SCHOOL DISTRICT THAT HAVE BEEN TRAINED AND DESIGNATED TO ADMINISTER EPINEPHRINE AUTO-INJECTORS.

(g) DETAILED STANDARDS FOR TRAINING PROGRAMS THAT MUST BE COMPLETED BY SCHOOL NURSES AND DESIGNATED SCHOOL PERSONNEL IN ORDER TO ADMINISTER AN EPINEPHRINE AUTO-INJECTOR IN ACCORDANCE WITH SUBSECTION (5.5) OF THIS SECTION. TRAINING MAY BE CONDUCTED ON-LINE AND, AT A MINIMUM, SHALL COVER:

(I) TECHNIQUES ON HOW TO RECOGNIZE SYMPTOMS OF SEVERE ALLERGIC REACTIONS, INCLUDING ANAPHYLAXIS;

(II) STANDARDS AND PROCEDURES FOR THE STORAGE AND ADMINISTRATION OF AN EPINEPHRINE AUTO-INJECTOR; AND

(III) EMERGENCY FOLLOW-UP PROCEDURES AFTER ADMINISTERING AN EPINEPHRINE AUTO-INJECTOR.

SECTION 2. In Colorado Revised Statutes, 12-36-117, **add** (1.8) as follows:

12-36-117. Unprofessional conduct. (1.8) A LICENSEE SHALL NOT BE SUBJECT TO DISCIPLINARY ACTION BY THE BOARD FOR ISSUING STANDING ORDERS AND PROTOCOLS REGARDING THE USE OF EPINEPHRINE AUTO-INJECTORS IN A PUBLIC OR NONPUBLIC SCHOOL IN ACCORDANCE WITH THE REQUIREMENTS OF SECTION 22-1-119.5, C.R.S., OR FOR THE ACTIONS TAKEN BY A SCHOOL NURSE OR BY ANY DESIGNATED SCHOOL PERSONNEL WHO ADMINISTER EPINEPHRINE AUTO-INJECTORS IN ACCORDANCE WITH THE REQUIREMENTS OF SECTION 22-1-119.5, C.R.S.

SECTION 3. In Colorado Revised Statutes, 12-38-125, **add** (1) (n) as follows:

12-38-125. Exclusions. (1) No provision of this article shall be construed to prohibit:

(n)(I) THE ADMINISTRATION OF EPINEPHRINE AUTO-INJECTORS BY A LICENSEE IN A PUBLIC SCHOOL OR NONPUBLIC SCHOOL PURSUANT TO A POLICY ADOPTED IN ACCORDANCE WITH SECTION 22-1-119.5, C.R.S.;

(II) THE ISSUANCE BY AN ADVANCED PRACTICE NURSE WITH PRESCRIPTIVE AUTHORITY OF STANDING ORDERS AND PROTOCOLS FOR THE USE OF EPINEPHRINE AUTO-INJECTORS FOR EMERGENCY USE IN A PUBLIC SCHOOL OR NONPUBLIC SCHOOL PURSUANT TO A POLICY ADOPTED IN ACCORDANCE WITH SECTION 22-1-119.5,

C.R.S.; OR

(III) THE TRAINING BY A LICENSEE OF AND THE DELEGATION TO DESIGNATED SCHOOL PERSONNEL ON THE RECOGNITION OF THE SYMPTOMS OF ANAPHYLACTIC SHOCK AND ON THE ADMINISTRATION OF EPINEPHRINE AUTO-INJECTORS IN A PUBLIC SCHOOL OR NONPUBLIC SCHOOL PURSUANT TO A POLICY ADOPTED IN ACCORDANCE WITH SECTION 22-1-119.5, C.R.S.

SECTION 4. In Colorado Revised Statutes, 12-42.5-102, **add** (42) (b) (XV) as follows:

12-42.5-102. Definitions. As used in this article, unless the context otherwise requires or the term is otherwise defined in another part of this article:

(42) (b) "Wholesale distribution" does not include:

(XV) THE DISTRIBUTION, DONATION, OR SALE BY A MANUFACTURER OR WHOLESALER OF A STOCK SUPPLY OF EPINEPHRINE AUTO-INJECTORS TO PUBLIC SCHOOLS OR NONPUBLIC SCHOOLS FOR EMERGENCY USE BY DESIGNATED SCHOOL PERSONNEL IN ACCORDANCE WITH THE REQUIREMENTS OF SECTION 22-1-119.5, C.R.S.

SECTION 5. No appropriation. The general assembly has determined that this act can be implemented within existing appropriations, and therefore no separate appropriation of state moneys is necessary to carry out the purposes of this act.

SECTION 6. Safety clause. The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

Approved: May 28, 2013