

## Chapter 41

### Emergency Injection for Anaphylactic Reaction Act

#### **26-41-101 Title.**

This chapter is known as the "Emergency Injection for Anaphylactic Reaction Act."

Enacted by Chapter 17, 1998 General Session

#### **26-41-102 Definitions.**

As used in this chapter:

- (1) "Anaphylaxis" means a potentially life-threatening hypersensitivity to a substance.
  - (a) Symptoms of anaphylaxis may include shortness of breath, wheezing, difficulty breathing, difficulty talking or swallowing, hives, itching, swelling, shock, or asthma.
  - (b) Causes of anaphylaxis may include insect sting, food allergy, drug reaction, and exercise.
- (2) "Epinephrine auto-injector" means a portable, disposable drug delivery device that contains a measured, single dose of epinephrine that is used to treat a person suffering a potentially fatal anaphylactic reaction.
- (3) "Qualified adult" means a person who:
  - (a) is 18 years of age or older; and
  - (b) has successfully completed the training program established in Section 26-41-104.
- (4) "Qualified entity":
  - (a) means a facility or organization that employs, contracts with, or has a similar relationship with a qualified adult who is likely to have contact with another person who may experience anaphylaxis; and
  - (b) includes:
    - (i) recreation camps;
    - (ii) an education facility, school, or university;
    - (iii) a day care facility;
    - (iv) youth sports leagues;
    - (v) amusement parks;
    - (vi) food establishments;
    - (vii) places of employment; and
    - (viii) recreation areas.

Amended by Chapter 106, 2017 General Session

#### **26-41-103 Voluntary participation.**

- (1) This chapter does not create a duty or standard of care for:
  - (a) a person to be trained in the use and storage of epinephrine auto-injectors; or
  - (b) except as provided in Subsection (5), a qualified entity to store epinephrine auto-injectors on its premises.
- (2) Except as provided in Subsections (3) and (5), a decision by a person to successfully complete a training program under Section 26-41-104 and to make emergency epinephrine auto-injectors available under the provisions of this chapter is voluntary.
- (3) A school, school board, or school official may not prohibit or dissuade a teacher or other school employee at a primary or secondary school in the state, either public or private, from:
  - (a) completing a training program under Section 26-41-104;

- (b) possessing or storing an epinephrine auto-injector on school property if:
  - (i) the teacher or school employee is a qualified adult; and
  - (ii) the possession and storage is in accordance with the training received under Section 26-41-104; or
- (c) administering an epinephrine auto-injector to any person, if:
  - (i) the teacher or school employee is a qualified adult; and
  - (ii) the administration is in accordance with the training received under Section 26-41-104.
- (4) A school, school board, or school official may encourage a teacher or other school employee to volunteer to become a qualified adult.
- (5)
  - (a) Each primary or secondary school in the state, both public and private, shall make an emergency epinephrine auto-injector available to any teacher or other school employee who:
    - (i) is employed at the school; and
    - (ii) is a qualified adult.
  - (b) This section does not require a school described in Subsection (5)(a) to keep more than one emergency epinephrine auto-injector on the school premises, so long as it may be quickly accessed by a teacher or other school employee, who is a qualified adult, in the event of an emergency.
- (6) No school, school board, or school official shall retaliate or otherwise take adverse action against a teacher or other school employee for:
  - (a) volunteering under Subsection (2);
  - (b) engaging in conduct described in Subsection (3); or
  - (c) failing or refusing to become a qualified adult.

Amended by Chapter 332, 2015 General Session

**26-41-104 Training in use and storage of epinephrine auto-injector.**

- (1)
  - (a) Each primary and secondary school in the state, both public and private, shall make initial and annual refresher training, regarding the storage and emergency use of an epinephrine auto-injector, available to any teacher or other school employee who volunteers to become a qualified adult.
  - (b) The training described in Subsection (1)(a) may be provided by the school nurse, or other person qualified to provide such training, designated by the school district physician, the medical director of the local health department, or the local emergency medical services director.
- (2) A person who provides training under Subsection (1) or (6) shall include in the training:
  - (a) techniques for recognizing symptoms of anaphylaxis;
  - (b) standards and procedures for the storage and emergency use of epinephrine auto-injectors;
  - (c) emergency follow-up procedures, including calling the emergency 911 number and contacting, if possible, the student's parent and physician; and
  - (d) written materials covering the information required under this Subsection (2).
- (3) A qualified adult shall retain for reference the written materials prepared in accordance with Subsection (2)(d).
- (4) A public school shall permit a student to possess an epinephrine auto-injector or possess and self-administer an epinephrine auto-injector if:
  - (a) the student's parent or guardian signs a statement:

- (i) authorizing the student to possess or possess and self-administer an epinephrine auto-injector; and
- (ii) acknowledging that the student is responsible for, and capable of, possessing or possessing and self-administering an epinephrine auto-injector; and
- (b) the student's health care provider provides a written statement that states that:
  - (i) it is medically appropriate for the student to possess or possess and self-administer an epinephrine auto-injector; and
  - (ii) the student should be in possession of the epinephrine auto-injector at all times.
- (5) The Utah Department of Health, in cooperation with the state superintendent of public instruction, shall design forms to be used by public schools for the parental and health care providers statements described in Subsection (4).
- (6)
  - (a) The department:
    - (i) shall approve educational programs conducted by other persons, to train:
      - (A) people under Subsection (6)(b) of this section, regarding the proper use and storage of emergency epinephrine auto-injectors; and
      - (B) a qualified entity regarding the proper storage and emergency use of epinephrine auto-injectors; and
    - (ii) may, as funding is available, conduct educational programs to train people regarding the use of and storage of emergency epinephrine auto-injectors.
  - (b) A person who volunteers to receive training as a qualified adult to administer an epinephrine auto-injector under the provisions of this Subsection (6) shall demonstrate a need for the training to the department, which may be based upon occupational, volunteer, or family circumstances, and shall include:
    - (i) camp counselors;
    - (ii) scout leaders;
    - (iii) forest rangers;
    - (iv) tour guides; and
    - (v) other persons who have or reasonably expect to have contact with at least one other person as a result of the person's occupational or volunteer status.

Amended by Chapter 332, 2015 General Session

**26-41-105 Authority to obtain and use an epinephrine auto-injector.**

- (1) A qualified adult who is a teacher or other school employee at a public or private primary or secondary school in the state, or a school nurse, may obtain from the school district physician, the medical director of the local health department, or the local emergency medical services director a prescription for epinephrine auto-injectors.
- (2) A qualified adult may obtain from a physician, pharmacist, or any other person or entity authorized to prescribe or dispense prescription drugs, a prescription for an epinephrine auto-injector.
- (3) A qualified adult:
  - (a) may immediately administer an epinephrine auto-injector to a person exhibiting potentially life-threatening symptoms of anaphylaxis when a physician is not immediately available; and
  - (b) shall initiate emergency medical services or other appropriate medical follow-up in accordance with the training materials retained under Section 26-41-104 after administering an epinephrine auto-injector.
- (4)

- (a) A qualified entity that complies with Subsection (4)(b), may obtain from a physician, pharmacist, or any other person or entity authorized to prescribe or dispense prescription drugs, a prescription for a supply of epinephrine auto-injectors, for:
  - (i) storing the epinephrine auto-injectors on the qualified entity's premises; and
  - (ii) use by a qualified adult in accordance with Subsection (3).
- (b) A qualified entity shall:
  - (i) designate an individual to complete an initial and annual refresher training program regarding the proper storage and emergency use of an epinephrine auto-injector available to a qualified adult; and
  - (ii) store epinephrine auto-injectors in accordance with the standards established by the department in Section 26-41-107.

Amended by Chapter 332, 2015 General Session

**26-41-106 Immunity from liability.**

- (1) The following, if acting in good faith, are not liable in any civil or criminal action for any act taken or not taken under the authority of this chapter with respect to an anaphylactic reaction:
  - (a) a qualified adult;
  - (b) a physician, pharmacist, or any other person or entity authorized to prescribe or dispense prescription drugs;
  - (c) a person who conducts training described in Section 26-41-104; and
  - (d) a qualified entity.
- (2) Section 53G-9-502 does not apply to the administration of an epinephrine auto-injector in accordance with this chapter.
- (3) This section does not eliminate, limit, or reduce any other immunity from liability or defense against liability that may be available under state law.

Amended by Chapter 415, 2018 General Session

**26-41-107 Administrative rulemaking authority.**

The department shall adopt rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to:

- (1) establish and approve training programs in accordance with Section 26-41-104;
- (2) establish a procedure for determining who is eligible for training as a qualified adult under Subsection 26-41-104(6)(b)(v); and
- (3) establish standards for storage of emergency auto-injectors by a qualified entity under Section 26-41-104.

Enacted by Chapter 332, 2015 General Session