

1 **AMENDMENTS TO EMERGENCY INJECTION**
2 **FOR ANAPHYLACTIC REACTION ACT**

3 2008 GENERAL SESSION

4 STATE OF UTAH

5 **Chief Sponsor: Todd E. Kiser**

6 Senate Sponsor: Margaret Dayton

8 **LONG TITLE**

9 **General Description:**

10 This bill amends provisions of the Emergency Injection for Anaphylactic Reaction Act.

11 **Highlighted Provisions:**

12 This bill:

- 13 ▶ defines terms;
- 14 ▶ provides that a school, school board, or school official of a primary or secondary
15 school may not prohibit or dissuade a teacher or other school employee from
16 receiving training to administer, possessing, storing, or administering an epinephrine
17 auto-injector;
- 18 ▶ requires each primary or secondary school in the state to make an emergency
19 epinephrine auto-injector available to any teacher or other school employee who is
20 employed at the school and is qualified to administer an epinephrine auto-injector;
- 21 ▶ requires each primary and secondary school to make training available, regarding the
22 storage and use of an epinephrine auto-injector, to a teacher or other school
23 employee who volunteers to take the training; and
- 24 ▶ makes technical changes.

25 **Monies Appropriated in this Bill:**

26 None

27 **Other Special Clauses:**

28 None

29 **Utah Code Sections Affected:**

30 AMENDS:

31 **26-41-102**, as last amended by Laws of Utah 2007, Chapter 37

32 **26-41-103**, as last amended by Laws of Utah 2007, Chapter 37

33 **26-41-104**, as last amended by Laws of Utah 2007, Chapter 37

34 **26-41-105**, as last amended by Laws of Utah 2007, Chapter 37

35 **26-41-106**, as enacted by Laws of Utah 1998, Chapter 17



37 *Be it enacted by the Legislature of the state of Utah:*

38 Section 1. Section **26-41-102** is amended to read:

39 **26-41-102. Definitions.**

40 As used in this chapter:

41 (1) "Anaphylaxis" means a potentially life-threatening hypersensitivity to a substance.

42 (a) Symptoms of anaphylaxis may include shortness of breath, wheezing, difficulty
43 breathing, difficulty talking or swallowing, hives, itching, swelling, shock, or asthma.

44 (b) Causes of anaphylaxis may include insect sting, food allergy, drug reaction, and
45 exercise.

46 [~~(2) "Designated person" means a person:~~]

47 [~~(a) 18 years of age or older; and~~]

48 [~~(b) who has successfully completed the training program established in Section
49 26-41-104.]~~]

50 [~~(3)~~] (2) "Epinephrine auto-injector" means a disposable drug delivery system with a
51 spring-activated concealed needle that is designed for emergency administration of epinephrine
52 to provide rapid, convenient first-aid for persons suffering a potentially fatal anaphylactic
53 reaction.

54 (3) "Qualified adult" means a person who:

55 (a) is 18 years of age or older; and

56 (b) has successfully completed the training program established in Section 26-41-104.

57 Section 2. Section **26-41-103** is amended to read:

58 **26-41-103. Voluntary participation.**

59 (1) ~~[(a)]~~ This chapter does not create a duty or standard of care for a person to be
60 trained in the use and storage of epinephrine auto-injectors. ~~[A decision]~~

61 (2) Except as provided in Subsections (3) and (5), a decision by a person to successfully
62 complete a training program under Section 26-41-104 and to make emergency epinephrine
63 auto-injectors available under the provisions of this chapter is voluntary.

64 ~~[(b) Each primary and secondary school in the state, both public and private, may~~
65 ~~voluntarily determine whether or not to make emergency epinephrine auto-injectors and trained~~
66 ~~personnel available at school.]~~

67 ~~[(2) In making a determination under Subsection (1), a school may evaluate the~~
68 ~~emergency medical response time to the school and determine whether initiating emergency~~
69 ~~medical services is an acceptable alternative to epinephrine auto-injectors and trained~~
70 ~~personnel.]~~

71 (3) A school, school board, or school official may not prohibit or dissuade a teacher or
72 other school employee at a primary or secondary school in the state, either public or private,
73 from:

74 (a) completing a training program under Section 26-41-104;

75 (b) possessing or storing an epinephrine auto-injector on school property if:

76 (i) the teacher or school employee is a qualified adult; and

77 (ii) the possession and storage is in accordance with the training received under Section
78 26-41-104; or

79 (c) administering an epinephrine auto-injector to any person, if:

80 (i) the teacher or school employee is a qualified adult; and

81 (ii) the administration is in accordance with the training received under Section

82 26-41-104.

83 (4) A school, school board, or school official may encourage a teacher or other school
84 employee to volunteer to become a qualified adult.

85 (5) (a) Each primary or secondary school in the state, both public and private, shall

86 make an emergency epinephrine auto-injector available to any teacher or other school employee
87 who:

88 (i) is employed at the school; and

89 (ii) is a qualified adult.

90 (b) This section does not require a school described in Subsection (5)(a) to keep more
91 than one emergency epinephrine auto-injector on the school premises, so long as it may be
92 quickly accessed by a teacher or other school employee, who is a qualified adult, in the event of
93 an emergency.

94 (6) No school, school board, or school official shall retaliate or otherwise take adverse
95 action against a teacher or other school employee for:

96 (a) volunteering under Subsection (2);

97 (b) engaging in conduct described in Subsection (3); or

98 (c) failing or refusing to become a qualified adult.

99 Section 3. Section **26-41-104** is amended to read:

100 **26-41-104. Training in use of epinephrine auto-injector.**

101 (1) (a) Each primary and secondary school in the state, both public and private, [~~may~~
102 ~~designate one or more school personnel who volunteers to receive~~] shall make initial and annual
103 refresher training [~~from~~], regarding the storage and emergency use of an epinephrine
104 auto-injector, available to any teacher or other school employee who volunteers to become a
105 qualified adult.

106 (b) The training described in Subsection (1)(a) may be provided by the school nurse, or
107 other [qualified] person qualified to provide such training, designated by the school district
108 physician, the medical director of the local health department, or the local emergency medical
109 services director [~~regarding the storage and emergency use of an epinephrine auto-injector~~].

110 (2) A person who provides training under Subsection (1) or (6) shall include in the
111 training:

112 (a) techniques for recognizing symptoms of anaphylaxis;

113 (b) standards and procedures for the storage and emergency use of epinephrine

114 auto-injectors;

115 (c) emergency follow-up procedures, including calling the emergency 911 number and
116 contacting, if possible, the student's parent and physician; and

117 (d) written materials covering the information required under this Subsection (2).

118 (3) A [~~designated person~~] qualified adult shall retain for reference the written materials
119 prepared in accordance with Subsection (2)(d).

120 (4) A public school shall permit a student to possess an epinephrine auto-injector or
121 possess and self-administer an epinephrine auto-injector if:

122 (a) the student's parent or guardian signs a statement:

123 (i) authorizing the student to possess or possess and self-administer an epinephrine
124 auto-injector; and

125 (ii) acknowledging that the student is responsible for, and capable of, possessing or
126 possessing and self-administering an epinephrine auto-injector; and

127 (b) the student's health care provider provides a written statement that states that:

128 (i) it is medically appropriate for the student to possess or possess and self-administer
129 an epinephrine auto-injector; and

130 (ii) the student should be in possession of the epinephrine auto-injector at all times.

131 (5) The Utah Department of Health, in cooperation with the state superintendent of
132 public instruction, shall design forms to be used by public schools for the parental and health
133 care providers statements described in Subsection (6).

134 (6) (a) The department:

135 (i) shall approve educational programs conducted by other persons, to train people
136 under Subsection (6)(b) of this section, regarding the use and storage of emergency epinephrine
137 auto-injectors; and

138 (ii) may, as funding is available, conduct educational programs to train people regarding
139 the use of and storage of emergency epinephrine auto-injectors.

140 (b) A person [~~designated~~] who volunteers to receive training to administer an
141 epinephrine auto-injector under the provisions of this Subsection (6) must demonstrate a need

142 for the training to the department, which may be based upon occupational, volunteer, or family
143 circumstances, and shall include:

- 144 (i) camp counselors;
- 145 (ii) scout leaders;
- 146 (iii) forest rangers;
- 147 (iv) tour guides; and
- 148 (v) other persons who have or reasonably expect to have responsibility for at least one
149 other person as a result of the person's occupational or volunteer status.

150 (7) The department shall adopt rules in accordance with Title 63, Chapter 46a, Utah
151 Administrative Rulemaking Act, to:

- 152 (a) establish and approve training programs in accordance with this section; and
- 153 (b) establish a procedure for determining the need for training under Subsection
154 (6)(b)(v).

155 Section 4. Section **26-41-105** is amended to read:

156 **26-41-105. Authority to obtain and use an epinephrine auto-injector.**

157 (1) A ~~[person]~~ qualified adult who is ~~[designated by]~~ a teacher or other school
158 employee at a public or private primary or secondary school in the state ~~[to receive training~~
159 ~~under Subsection 26-41-104(1)]~~, or a school nurse, may obtain from the school district
160 physician, the medical director of the local health department, or the local emergency medical
161 services director a prescription for epinephrine auto-injectors.

162 (2) A ~~[person permitted to administer epinephrine auto-injectors under the provisions of~~
163 ~~Subsection 26-41-104(6)]~~ qualified adult may obtain from a physician, pharmacist, or any other
164 person or entity authorized to prescribe or sell prescribed medicines or drugs, a prescription for
165 an epinephrine auto-injector.

166 ~~[(3) A person authorized to administer an epinephrine auto-injector under the~~
167 ~~provisions of this chapter.]~~

168 (3) A qualified adult:

- 169 (a) may immediately administer an epinephrine auto-injector to a person exhibiting

170 potentially life-threatening symptoms of anaphylaxis when a physician is not immediately
171 available; and

172 (b) shall initiate emergency medical services or other appropriate medical follow-up in
173 accordance with the training materials retained under Section 26-41-104 after administering an
174 epinephrine auto-injector.

175 Section 5. Section **26-41-106** is amended to read:

176 **26-41-106. Immunity from liability.**

177 (1) A [~~person who has received training under Section 26-41-104 and~~] qualified adult
178 who acts in good faith is not liable in any civil or criminal action for any act taken or not taken
179 under the authority of this chapter with respect to an anaphylactic reaction.

180 (2) Section 53A-11-601 does not apply to the administration of an epinephrine auto-
181 injector in accordance with this chapter.