

**EPINEPHRINE AUTO-INJECTOR USE EXPANSION**

2015 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Margaret Dayton**

House Sponsor: Patrice M. Arent

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**LONG TITLE**

**General Description:**

This bill amends the Emergency Injection For Anaphylactic Reaction Act in the Utah Health Code.

**Highlighted Provisions:**

This bill:

- ▶ defines terms;
- ▶ permits certain qualified entities to obtain a prescription for a supply of epinephrine auto-injectors for use by a trained, qualified adult;
- ▶ requires the qualified entity to store the supply of epinephrine auto-injectors in accordance with standards developed by the Department of Health;
- ▶ expands liability protection with respect to an anaphylactic reaction to:
  - a medical professional prescribing a supply of epinephrine auto-injectors;
  - a person conducting training; and
  - a qualified entity; and
- ▶ provides administrative rulemaking authority to the Department of Health.

**Money Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:**



28 AMENDS:

29 **26-41-102**, as last amended by Laws of Utah 2008, Chapter 64

30 **26-41-103**, as last amended by Laws of Utah 2008, Chapter 64

31 **26-41-104**, as last amended by Laws of Utah 2011, Chapter 297

32 **26-41-105**, as last amended by Laws of Utah 2008, Chapter 64

33 **26-41-106**, as last amended by Laws of Utah 2008, Chapter 64

34 ENACTS:

35 **26-41-107**, Utah Code Annotated 1953



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) "Epinephrine auto-injector" means a disposable drug delivery system with a  
47 spring-activated concealed needle that is designed for emergency administration of epinephrine  
48 to provide rapid, convenient first-aid for persons suffering a potentially fatal anaphylactic  
49 reaction.

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

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

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

53 (4) "Qualified entity":

54 (a) means a facility or organization that employs, contracts with, or has a similar  
55 relationship with a qualified adult who is likely to have contact with another person who may  
56 experience anaphylaxis; and

57 (b) includes:

58 (i) recreation camps;

- 59           (ii) an education facility, school, or university;
- 60           (iii) a day care facility;
- 61           (iv) youth sports leagues;
- 62           (v) amusement parks;
- 63           (vi) food establishments;
- 64           (vii) places of employment; and
- 65           (viii) recreation areas.

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

67           **26-41-103. Voluntary participation.**

68           (1) This chapter does not create a duty or standard of care for:

- 69           (a) a person to be trained in the use and storage of epinephrine auto-injectors[-]; or
- 70           (b) except as provided in Subsection (5), a qualified entity to store epinephrine
- 71 auto-injectors on its premises.

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

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

- 78           (a) completing a training program under Section **26-41-104**;
- 79           (b) possessing or storing an epinephrine auto-injector on school property if:
  - 80           (i) the teacher or school employee is a qualified adult; and
  - 81           (ii) the possession and storage is in accordance with the training received under Section
  - 82 **26-41-104**; or
- 83           (c) administering an epinephrine auto-injector to any person, if:
  - 84           (i) the teacher or school employee is a qualified adult; and
  - 85           (ii) the administration is in accordance with the training received under Section
  - 86 **26-41-104**.

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

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

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

- 92 (i) is employed at the school; and
- 93 (ii) is a qualified adult.

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

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

- 100 (a) volunteering under Subsection (2);
- 101 (b) engaging in conduct described in Subsection (3); or
- 102 (c) failing or refusing to become a qualified adult.

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

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

105 (1) (a) Each primary and secondary school in the state, both public and private, shall  
106 make initial and annual refresher training, regarding the storage and emergency use of an  
107 epinephrine auto-injector, available to any teacher or other school employee who volunteers to  
108 become a qualified adult.

109 (b) The training described in Subsection (1)(a) may be provided by the school nurse, or  
110 other person qualified to provide such training, designated by the school district physician, the  
111 medical director of the local health department, or the local emergency medical services  
112 director.

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

- 115 (a) techniques for recognizing symptoms of anaphylaxis;
- 116 (b) standards and procedures for the storage and emergency use of epinephrine  
117 auto-injectors;
- 118 (c) emergency follow-up procedures, including calling the emergency 911 number and  
119 contacting, if possible, the student's parent and physician; and
- 120 (d) written materials covering the information required under this Subsection (2).

121 (3) A qualified adult shall retain for reference the written materials prepared in  
122 accordance with Subsection (2)(d).

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

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

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

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

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

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

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

134 (5) The Utah Department of Health, in cooperation with the state superintendent of  
135 public instruction, shall design forms to be used by public schools for the parental and health  
136 care providers statements described in Subsection [~~(6)~~] (4).

137 (6) (a) The department:

138 (i) shall approve educational programs conducted by other persons, to train:

139 (A) people under Subsection (6)(b) of this section, regarding the proper use and storage  
140 of emergency epinephrine auto-injectors; and

141 (B) a qualified entity regarding the proper storage and emergency use of epinephrine  
142 auto-injectors; and

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

145 (b) A person who volunteers to receive training as a qualified adult to administer an  
146 epinephrine auto-injector under the provisions of this Subsection (6) shall demonstrate a need  
147 for the training to the department, which may be based upon occupational, volunteer, or family  
148 circumstances, and shall include:

149 (i) camp counselors;

150 (ii) scout leaders;

151 (iii) forest rangers;

152 (iv) tour guides; and  
 153 (v) other persons who have or reasonably expect to have ~~[responsibility for]~~ contact  
 154 with at least one other person as a result of the person's occupational or volunteer status.

155 ~~[(7) The department shall adopt rules in accordance with Title 63G, Chapter 3, Utah~~  
 156 ~~Administrative Rulemaking Act, to:]~~

157 ~~[(a) establish and approve training programs in accordance with this section; and]~~

158 ~~[(b) establish a procedure for determining the need for training under Subsection~~  
 159 ~~(6)(b)(v).]~~

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

161 **26-41-105. Authority to obtain and use an epinephrine auto-injector.**

162 (1) A qualified adult who is a teacher or other school employee at a public or private  
 163 primary or secondary school in the state, or a school nurse, may obtain from the school district  
 164 physician, the medical director of the local health department, or the local emergency medical  
 165 services director a prescription for epinephrine auto-injectors.

166 (2) A qualified adult may obtain from a physician, pharmacist, or any other person or  
 167 entity authorized to prescribe or ~~[self prescribed medicines or]~~ dispense prescription drugs, a  
 168 prescription for an epinephrine auto-injector.

169 (3) A qualified adult:

170 (a) may immediately administer an epinephrine auto-injector to a person exhibiting  
 171 potentially life-threatening symptoms of anaphylaxis when a physician is not immediately  
 172 available; and

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

176 (4) (a) A qualified entity that complies with Subsection (4)(b), may obtain from a  
 177 physician, pharmacist, or any other person or entity authorized to prescribe or dispense  
 178 prescription drugs, a prescription for a supply of epinephrine auto-injectors, for:

179 (i) storing the epinephrine auto-injectors on the qualified entity's premises; and

180 (ii) use by a qualified adult in accordance with Subsection (3).

181 (b) A qualified entity shall:

182 (i) designate an individual to complete an initial and annual refresher training program

183 regarding the proper storage and emergency use of an epinephrine auto-injector available to a  
184 qualified adult; and

185 (ii) store epinephrine auto-injectors in accordance with the standards established by the  
186 department in Section 26-41-107.

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

188 **26-41-106. Immunity from liability.**

189 (1) ~~[A qualified adult who acts in good faith is]~~ The following, if acting in good faith,  
190 are not liable in any civil or criminal action for any act taken or not taken under the authority of  
191 this chapter with respect to an anaphylactic reaction[;]:

192 (a) a qualified adult;

193 (b) a physician, pharmacist, or any other person or entity authorized to prescribe or  
194 dispense prescription drugs;

195 (c) a person who conducts training described in Section 26-41-104; and

196 (d) a qualified entity.

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

199 (3) This section does not eliminate, limit, or reduce any other immunity from liability  
200 or defense against liability that may be available under state law.

201 Section 6. Section 26-41-107 is enacted to read:

202 **26-41-107. Administrative rulemaking authority.**

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

205 (1) establish and approve training programs in accordance with Section 26-41-104;

206 (2) establish a procedure for determining who is eligible for training as a qualified  
207 adult under Subsection 26-41-104(6)(b)(v); and

208 (3) establish standards for storage of emergency auto-injectors by a qualified entity  
209 under Section 26-41-104.

**Legislative Review Note**  
**as of 1-26-15 11:14 AM**

**Office of Legislative Research and General Counsel**