

1 **EPINEPHRINE AUTO-INJECTOR USE EXPANSION**

2 2015 GENERAL SESSION

3 STATE OF UTAH

4 **Chief Sponsor: Margaret Dayton**

5 House Sponsor: Patrice M. Arent

7 **LONG TITLE**

8 **General Description:**

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

11 **Highlighted Provisions:**

12 This bill:

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

23 **Money Appropriated in this Bill:**

24 None

25 **Other Special Clauses:**

26 None

27 **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](#).