

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 803 Session of 2013

INTRODUCED BY STEVENSON, PICKETT, WHITE, COHEN, O'NEILL, HARHART, HEFFLEY, TRUITT, KORTZ, YOUNGBLOOD, LONGIETTI, D. COSTA, MAHONEY, CALTAGIRONE, MILLARD, SIMMONS, C. HARRIS, MOUL, HARKINS, SWANGER, TALLMAN, GINGRICH, V. BROWN, CLYMER, GRELL, THOMAS, WATSON, DEASY, MARSICO, GILLEN, ROEBUCK, PEIFER, GIBBONS AND BRADFORD, FEBRUARY 25, 2013

AS REPORTED FROM COMMITTEE ON EDUCATION, HOUSE OF REPRESENTATIVES, AS AMENDED, NOVEMBER 19, 2013

AN ACT

1 Amending the act of March 10, 1949 (P.L.30, No.14), entitled "An
2 act relating to the public school system, including certain
3 provisions applicable as well to private and parochial
4 schools; amending, revising, consolidating and changing the
5 laws relating thereto," in school health services, providing
6 for school access to emergency epinephrine.

7 The General Assembly of the Commonwealth of Pennsylvania
8 hereby enacts as follows:

9 Section 1. The act of March 10, 1949 (P.L.30, No.14), known
10 as the Public School Code of 1949, is amended by adding a
11 section to read:

12 Section 1414.2. School Access to Emergency Epinephrine.--(a)
13 A SUBJECT TO SUBSECTION (G), A school entity or nonpublic school <--
14 may authorize a trained school employe to:
15 (1) provide an epinephrine auto-injector that meets the
16 prescription on file FOR EITHER THE INDIVIDUAL STUDENT OR THE <--
17 SCHOOL ENTITY OR NONPUBLIC SCHOOL to a student who is authorized

1 to self-administer an epinephrine auto-injector;
2 (2) administer TO A STUDENT an epinephrine auto-injector <--
3 that meets the prescription on file to a student who is <--
4 authorized to self-administer an epinephrine auto-injector FOR <--
5 EITHER THE INDIVIDUAL STUDENT OR THE SCHOOL ENTITY OR NONPUBLIC
6 SCHOOL; and
7 (3) administer an epinephrine auto-injector THAT MEETS THE <--
8 PRESCRIPTION ON FILE FOR THE SCHOOL ENTITY OR NONPUBLIC SCHOOL
9 to a student that the employe in good faith believes to be
10 having an anaphylactic reaction.
11 (b) Notwithstanding section 11 of the act of April 14, 1972
12 (P.L.233, No.64), known as "The Controlled Substance, Drug,
13 Device and Cosmetic Act," a physician may prescribe epinephrine
14 auto-injectors in the name of the school entity or nonpublic
15 school to be maintained for use when necessary PURSUANT TO <--
16 SUBSECTION (A).
17 (c) A school entity or nonpublic school may maintain at a
18 school in a locked, secure location a supply of epinephrine
19 auto-injectors.
20 (d) A school entity or nonpublic school that authorizes the
21 provision of epinephrine auto-injectors under this section shall
22 designate one or more individuals at each school who shall be
23 responsible for the storage and use of the epinephrine auto-
24 injectors.
25 (e) Individuals who are responsible for the storage and use
26 of epinephrine auto-injectors must successfully complete a
27 training program THAT SHALL BE developed and implemented by the <--
28 Department of Health WITHIN NINETY (90) DAYS OF THE EFFECTIVE <--
29 DATE OF THIS SECTION.
30 (f) (1) An epinephrine auto-injector from the school

1 entity's or nonpublic school's supply of epinephrine auto-
2 injectors that meets the prescription on file FOR THE SCHOOL <--
3 ENTITY OR NONPUBLIC SCHOOL may be provided to and utilized by a
4 student authorized to self-administer or MAY BE ADMINISTERED by <--
5 a trained school employe authorized to administer an epinephrine
6 auto-injector to the A student PURSUANT TO SUBSECTION (A). <--

7 (2) When a student does not have an epinephrine auto-
8 injector or a prescription for an epinephrine auto-injector on
9 file, a trained school employe may utilize the school entity's
10 or nonpublic school's supply of epinephrine auto-injectors to
11 respond to anaphylactic reaction under a standing protocol from
12 a physician and as provided in this section.

13 (F.1) IN THE EVENT A STUDENT IS BELIEVED TO BE HAVING AN <--
14 ANAPHYLACTIC REACTION, THE SCHOOL NURSE OR AN INDIVIDUAL IN THE
15 SCHOOL WHO IS RESPONSIBLE FOR THE STORAGE AND USE OF EPINEPHRINE
16 AUTO-INJECTORS SHALL CONTACT 911 AS SOON AS POSSIBLE.

17 (g) ~~(1) A school entity or nonpublic school must inform the~~ <--
18 ~~parent or guardian of a student, in writing, that the school~~
19 ~~entity or nonpublic school and its employes and agents,~~
20 ~~including a physician providing standing protocol or~~
21 ~~prescription for school epinephrine auto injectors, are to incur~~
22 ~~no liability, except for wilful and wanton misconduct, as a~~
23 ~~result of any injury arising from the self administration or use~~
24 ~~of an epinephrine auto injector under this section, regardless~~
25 ~~of whether authorization was given by the student's parent or~~
26 ~~guardian or by the student's physician, physician's assistant or~~
27 ~~certified registered nurse practitioner. The parent or guardian~~
28 ~~of the student must sign a statement acknowledging that the~~
29 ~~school entity or nonpublic school and its employes and agents~~
30 ~~are to incur no liability, except for wilful and wanton~~

~~1 misconduct, as a result of any injury arising from the self-~~
~~2 administration or use of an epinephrine auto injector under this-~~
~~3 section, regardless of whether authorization was given by the-~~
~~4 student's parent or guardian or by the student's physician,-~~
~~5 physician's assistant or certified registered nurse-~~
~~6 practitioner, and that the parents or guardians must indemnify-~~
~~7 and hold harmless the school entity or nonpublic school and its-~~
~~8 employees and agents against any claims, except a claim based on-~~
~~9 wilful and wanton misconduct, arising out of the self-~~
~~10 administration or use of an epinephrine auto injector under this-~~
~~11 section, regardless of whether authorization was given by the-~~
~~12 student's parent or guardian or by the student's physician,-~~
~~13 physician's assistant or certified registered nurse-~~
~~14 practitioner.~~

~~15 (2) When a trained school employe administers an epinephrine-~~
~~16 auto injector to a student whom the employe in good faith-~~
~~17 believes is having an anaphylactic reaction, notwithstanding the-~~
~~18 lack of notice to the parent or guardian of the student or the-~~
~~19 absence of the parent's or guardian's signed statement-~~
~~20 acknowledging no liability, except for wilful and wanton-~~
~~21 misconduct, the school entity or nonpublic school and its-~~
~~22 employes and agents, including a physician providing standing-~~
~~23 protocol or prescription for school epinephrine auto injectors,-~~
~~24 are to incur no liability, except for wilful and wanton-~~
~~25 misconduct, as a result of any injury arising from the use of an-~~
~~26 epinephrine auto injector, regardless of whether authorization-~~
~~27 was given by the student's parent or guardian or by the-~~
~~28 student's physician, physician's assistant or certified-~~
~~29 registered nurse practitioner. AT THE REQUEST OF A PARENT OR <--~~
~~30 LEGAL GUARDIAN, A STUDENT SHALL BE EXEMPT FROM SUBSECTIONS (A),~~

1 (F) AND (H). THE PRINCIPAL OF THE SCHOOL IN WHICH THE STUDENT IS
2 ENROLLED SHALL NOTIFY ALL PARENTS OR LEGAL GUARDIANS OF THEIR
3 ABILITY TO EXEMPT THEIR CHILDREN FROM SUBSECTIONS (A), (F) AND
4 (H) BY RETURNING A SIGNED OPT-OUT FORM.

5 (H) THE PROVISIONS OF 42 PA.C.S. §§ 8332 (RELATING TO
6 EMERGENCY RESPONSE PROVIDER AND BYSTANDER GOOD SAMARITAN CIVIL
7 IMMUNITY) AND 8337.1 (RELATING TO CIVIL IMMUNITY OF SCHOOL
8 OFFICERS OR EMPLOYEES RELATING TO EMERGENCY CARE, FIRST AID AND
9 RESCUE) SHALL APPLY TO A PERSON WHO ADMINISTERS AN EPINEPHRINE
10 AUTO-INJECTOR PURSUANT TO THIS SECTION.

11 (I) ADMINISTRATION OF AN EPINEPHRINE AUTO-INJECTOR UNDER
12 THIS SECTION SHALL COMPLY WITH SECTION 504 OF THE REHABILITATION
13 ACT OF 1973 (PUBLIC LAW 93-112, 29 U.S.C. § 794) AND 22 PA. CODE
14 CH. 15 (RELATING TO PROTECTED HANDICAPPED STUDENTS).

15 ~~(h)~~ (J) As used in this section, "school entity" means a <--
16 school district, intermediate unit, charter school, CYBER <--
17 CHARTER SCHOOL, REGIONAL CHARTER SCHOOL or area vocational-
18 technical school.

19 Section 2. This act shall take effect in 60 days.