

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 898 Session of 2013

INTRODUCED BY SMITH, WOZNIAK, TEPLITZ, VULAKOVICH, WASHINGTON, FONTANA, RAFFERTY, SOLOBAY, COSTA, BROWNE, FARNESE, TARTAGLIONE, FERLO, BLAKE AND LEACH, MAY 31, 2013

SENATOR FOLMER, EDUCATION, AS AMENDED, SEPTEMBER 23, 2014

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 school entity or nonpublic school may authorize a trained AN <--
14 EDUCATED school employe to PERFORM ANY OF THE FOLLOWING IN <--
15 RESPONSE TO AN ANAPHYLACTIC REACTION IN A STUDENT:

16 (1) ~~provide~~ PROVIDE an epinephrine auto-injector that meets <--
17 the prescription on file to a student who is authorized to self-
18 administer an epinephrine auto-injector. <--

19 (2) ~~administer~~ ADMINISTER an epinephrine auto-injector that <--

1 meets the prescription on file to a student who is authorized to  
2 self-administer an epinephrine auto-injector; and. <--

3 (3) ~~administer~~ ADMINISTER an epinephrine auto-injector to a <--  
4 student WHO DOES NOT HAVE A PRESCRIPTION FOR AN EPINEPHRINE <--  
5 AUTO-INJECTOR ON FILE that the employe in good faith believes to  
6 be having an anaphylactic reaction.

7 (b) Notwithstanding section 11 of the act of April 14, 1972  
8 (P.L.233, No.64), known as "The Controlled Substance, Drug,  
9 Device and Cosmetic Act," a physician may prescribe epinephrine  
10 auto-injectors in the name of the school entity or nonpublic  
11 school to be maintained for use when necessary.

12 (c) A school entity or nonpublic school ~~shall~~ MAY maintain <--  
13 at a school in a secure location a supply of epinephrine auto-  
14 injectors.

15 (d) A school entity or nonpublic school that authorizes the  
16 provision of epinephrine auto-injectors under this section shall  
17 designate ~~one~~ TWO or more individuals at each school who shall <--  
18 be responsible for the storage and use of the epinephrine auto-  
19 injectors.

20 (e) Individuals who are responsible for the storage and use  
21 of epinephrine auto-injectors must successfully complete a <--  
22 training program developed and implemented by the Department of  
23 Health.

24 ~~(f) (1) An epinephrine auto injector from the school~~  
25 ~~entity's or nonpublic school's supply of epinephrine auto~~  
26 ~~injectors that meets the prescription on file may be provided to~~  
27 ~~and utilized by a student authorized to self administer or by a~~  
28 ~~trained school employe authorized to administer an epinephrine~~  
29 ~~auto injector to the student.~~

30 ~~(2) When a student does not have an epinephrine auto~~

1 ~~injector or a prescription for an epinephrine auto injector on~~  
2 ~~file, a trained school employe may utilize the school entity's~~  
3 ~~or nonpublic school's supply of epinephrine auto injectors to~~  
4 ~~respond to anaphylactic reaction under a standing protocol from~~  
5 ~~a physician and as provided in this section.~~

6 ~~(g) (1) A school entity or nonpublic school must inform the~~  
7 ~~parent or guardian of a student, in writing, that the school~~  
8 ~~entity or nonpublic school and its employes and agents,~~  
9 ~~including a physician providing standing protocol or~~  
10 ~~prescription for school epinephrine auto injectors, shall not be~~  
11 ~~liable, except for wilful and wanton misconduct, for any injury~~  
12 ~~arising from the self administration or use of an epinephrine~~  
13 ~~auto injector under this section, regardless of whether~~  
14 ~~authorization was given by the student's parent or guardian or~~  
15 ~~by the student's physician, physician's assistant or certified~~  
16 ~~registered nurse practitioner. The parent or guardian of the~~  
17 ~~student must sign a statement acknowledging that the school~~  
18 ~~entity or nonpublic school and its employes and agents shall not~~  
19 ~~be liable, except for wilful and wanton misconduct, for any~~  
20 ~~injury arising from the self administration or use of an~~  
21 ~~epinephrine auto injector under this section, regardless of~~  
22 ~~whether authorization was given by the student's parent or~~  
23 ~~guardian or by the student's physician, physician's assistant or~~  
24 ~~certified registered nurse practitioner, and that the parents or~~  
25 ~~guardians must indemnify and hold harmless the school entity or~~  
26 ~~nonpublic school and its employes and agents against any claims,~~  
27 ~~except a claim based on wilful and wanton misconduct, arising~~  
28 ~~out of the self administration or use of an epinephrine auto~~  
29 ~~injector under this section, regardless of whether authorization~~  
30 ~~was given by the student's parent or guardian or by the~~

1 ~~student's physician, physician's assistant or certified~~  
2 ~~registered nurse practitioner.~~

3 ~~(2) When a trained school employe administers an epinephrine~~  
4 ~~auto injector to a student whom the employe in good faith~~  
5 ~~believes is having an anaphylactic reaction, notwithstanding the~~  
6 ~~lack of notice to the parent or guardian of the student or the~~  
7 ~~absence of the parent's or guardian's signed statement~~  
8 ~~acknowledging no liability, except for wilful and wanton~~  
9 ~~misconduct, the school entity or nonpublic school and its~~  
10 ~~employes and agents, including a physician providing standing~~  
11 ~~protocol or prescription for school epinephrine auto injectors,~~  
12 ~~shall not be liable, except for wilful and wanton misconduct,~~  
13 ~~for any injury arising from the use of an epinephrine auto-~~  
14 ~~injector, regardless of whether authorization was given by the~~  
15 ~~student's parent or guardian or by the student's physician,~~  
16 ~~physician's assistant or certified registered nurse~~  
17 ~~practitioner.~~

18 ~~(h) As used in this section, "school AN EDUCATION PROGRAM. <--~~  
19 ~~WITHIN NINETY (90) DAYS OF THE EFFECTIVE DATE OF THIS SECTION,~~  
20 ~~THE DEPARTMENT SHALL APPROVE A LIST OF EDUCATIONAL PROGRAM~~  
21 ~~PROVIDERS AND UPDATE IT AS APPROPRIATE.~~

22 ~~(F) IN RESPONSE TO AN ANAPHYLACTIC REACTION IN A STUDENT,~~  
23 ~~THE FOLLOWING APPLY:~~

24 ~~(1) WHERE A STUDENT WHO HAS A PRESCRIPTION FOR AN~~  
25 ~~EPINEPHRINE AUTO-INJECTOR ON FILE IS AUTHORIZED TO SELF-~~  
26 ~~ADMINISTER, THE STUDENT'S PRESCRIBED EPINEPHRINE AUTO-INJECTOR~~  
27 ~~SHALL BE EITHER:~~

28 ~~(I) UTILIZED BY THE STUDENT FOR SELF-ADMINISTRATION IN~~  
29 ~~ACCORDANCE WITH SECTION 1414.1; OR~~

30 ~~(II) PROVIDED TO AND UTILIZED BY AN EDUCATED SCHOOL EMPLOYE~~

1 AND ADMINISTERED TO THE STUDENT AS PROVIDED UNDER THIS SECTION.

2 (2) WHERE A STUDENT WHO HAS A PRESCRIPTION FOR AN  
3 EPINEPHRINE AUTO-INJECTOR ON FILE IS AUTHORIZED TO SELF-  
4 ADMINISTER, BUT DOES NOT POSSESS OR CANNOT ACCESS THE  
5 EPINEPHRINE AUTO-INJECTOR AT THE TIME OF THE EMERGENCY, AND THE  
6 SCHOOL ENTITY OR NONPUBLIC SCHOOL MAINTAINS A SUPPLY OF  
7 EPINEPHRINE AUTO-INJECTORS, AN EPINEPHRINE AUTO-INJECTOR FROM  
8 THE SCHOOL ENTITY'S OR NONPUBLIC SCHOOL'S SUPPLY SHALL BE  
9 EITHER:

10 (I) PROVIDED TO THE STUDENT FOR SELF-ADMINISTRATION; OR

11 (II) PROVIDED TO AN EDUCATED SCHOOL EMPLOYE AND ADMINISTERED  
12 TO THE STUDENT AS PROVIDED UNDER THIS SECTION.

13 (3) WHERE A STUDENT DOES NOT HAVE A PRESCRIPTION FOR AN  
14 EPINEPHRINE AUTO-INJECTOR ON FILE IN A SCHOOL ENTITY OR  
15 NONPUBLIC SCHOOL THAT MAINTAINS A SUPPLY OF EPINEPHRINE AUTO-  
16 INJECTORS, AN EPINEPHRINE AUTO-INJECTOR FROM THE SCHOOL ENTITY'S  
17 OR NONPUBLIC SCHOOL'S SUPPLY SHALL BE PROVIDED TO AN EDUCATED  
18 SCHOOL EMPLOYE AND ADMINISTERED TO THE STUDENT BY THE EDUCATED  
19 SCHOOL EMPLOYE WHERE APPROPRIATE UNDER A STANDING PROTOCOL FROM  
20 A PHYSICIAN AS PROVIDED IN THIS SECTION.

21 (G) FOLLOWING ADMINISTRATION OF EMERGENCY EPINEPHRINE,  
22 SCHOOL PERSONNEL SHALL IMMEDIATELY NOTIFY THE APPROPRIATE  
23 EMERGENCY MEDICAL SERVICES AGENCY AS DEFINED IN 35 PA.C.S. CH.  
24 81 (RELATING TO EMERGENCY MEDICAL SERVICES SYSTEM).

25 (H) AT THE REQUEST OF A PARENT OR LEGAL GUARDIAN, A STUDENT  
26 SHALL BE EXEMPT FROM SUBSECTIONS (A), (F) AND (I). THE PRINCIPAL  
27 OF THE SCHOOL IN WHICH THE STUDENT IS ENROLLED SHALL NOTIFY ALL  
28 PARENTS OR LEGAL GUARDIANS OF THEIR ABILITY TO EXEMPT THEIR  
29 CHILDREN FROM SUBSECTIONS (A), (F) AND (I) BY RETURNING A SIGNED  
30 OPT-OUT FORM. THE DEPARTMENT SHALL DEVELOP A STANDARD OPT-OUT

1 FORM THAT SHALL BE USED BY ALL SCHOOL ENTITIES AND NONPUBLIC  
2 SCHOOLS MAINTAINING A SUPPLY OF EPINEPHRINE AUTO-INJECTORS.

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

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

13 (K) AS USED IN THIS SECTION, THE FOLLOWING WORDS AND PHRASES  
14 SHALL HAVE THE MEANINGS GIVEN TO THEM IN THIS SUBSECTION UNLESS  
15 THE CONTEXT CLEARLY INDICATES OTHERWISE:

16 "DEPARTMENT" MEANS THE DEPARTMENT OF HEALTH OF THE  
17 COMMONWEALTH.

18 "EDUCATED SCHOOL EMPLOYE" MEANS A SCHOOL EMPLOYE OF A SCHOOL  
19 DISTRICT OR NONPUBLIC SCHOOL WHO COMPLETES AN EDUCATION PROGRAM  
20 UNDER SUBSECTION (E).

21 "SCHOOL entity" means a school district, intermediate unit,  
22 charter school, CYBER CHARTER SCHOOL, REGIONAL CHARTER SCHOOL or <--  
23 area vocational-technical school.

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