

AMENDED IN SENATE MAY 6, 2014
AMENDED IN SENATE APRIL 21, 2014
AMENDED IN SENATE MARCH 24, 2014

SENATE BILL

No. 1266

**Introduced by Senator Huff
(Coauthor: Senator Hill)**

February 21, 2014

An act to amend Section 4119.2 of the Business and Professions Code, and to amend Section 49414 of the Education Code, relating to pupil health.

LEGISLATIVE COUNSEL'S DIGEST

SB 1266, as amended, Huff. Pupil health: epinephrine auto-injectors.

Existing law authorizes a school district or county office of education to provide emergency epinephrine auto-injectors to trained personnel, and authorizes trained personnel to use those epinephrine auto-injectors to provide emergency medical aid to persons suffering from an anaphylactic reaction. Existing law authorizes each public and private elementary and secondary school in the state to designate one or more school personnel on a voluntary basis to receive initial and annual refresher training regarding the storage and emergency use of an epinephrine auto-injector, as specified. Existing law authorizes a school nurse, or a person who has received the training described above if the school does not have a school nurse, to, among other things, obtain a prescription for epinephrine auto-injectors, as specified. *Existing law authorizes a pharmacy to furnish epinephrine auto-injectors to a school district or county office of education if certain requirements are met.*

This bill would require school districts, county offices of education, and charter schools to provide emergency epinephrine auto-injectors to trained personnel and would authorize trained personnel to use those epinephrine auto-injectors to provide emergency medical aid to persons ~~suffering~~ *suffering, or reasonably believed to be suffering*, from an anaphylactic reaction. The bill would require each public elementary and secondary school ~~in the state to designate one or more school personnel on a voluntary basis, if no school personnel volunteers as a designee, to require a school nurse or, if the school does not have a school nurse or the school nurse is not onsite or available, a school administrator~~ to receive initial and annual refresher training regarding the storage and emergency use of an epinephrine auto-injector, as specified. The bill would require a school nurse, or a school administrator ~~or his or her designee who has received the training described above~~ if the school does not have a school nurse or the school nurse is not onsite or available, to obtain the prescription for epinephrine auto-injectors, as specified, and would authorize the prescription for epinephrine auto-injectors to be filled by local or mail order pharmacies or epinephrine auto-injector manufacturers. *The bill would authorize a pharmacy to also furnish epinephrine auto-injectors to a charter school if certain conditions are met.* The bill would require an epinephrine auto-injector to be restocked as soon as possible after it is used and before its expiration date.

The bill would require the school nurse or ~~designated~~ *voluntarily designated* employee to report any incident of epinephrine auto-injector use to the school district, county office of education, or chartering authority on a form developed by the State Department of Education within 30 days after the last day of each school year. The bill would require the school district, county office of education, or chartering authority to report any incident of epinephrine auto-injector use to the department on those forms and would require the department to annually post the result of those forms on its Internet Web site. The bill would require a school district, county office of education, or charter school to ensure that each employee who volunteers is provided defense and indemnification by the school district, county office of education, or charter school for any and all civil liability, as specified. The bill would authorize a public school to accept gifts, grants, and donations from any source for the support of the public school carrying out these provisions.

By requiring ~~school districts and county offices of education~~ *local educational agencies* to perform additional duties related to epinephrine auto-injectors, the bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 4119.2 of the Business and Professions
2 Code is amended to read:

3 4119.2. (a) Notwithstanding any other ~~provision of~~ law, a
4 pharmacy may furnish epinephrine auto-injectors to a school
5 ~~district or district~~, county office of education, *or charter school*
6 pursuant to Section 49414 of the Education Code if all of the
7 following are met:

8 (1) The epinephrine auto-injectors are furnished exclusively for
9 use at a school ~~district site or site~~, county office of ~~education~~
10 *education, or charter school.*

11 (2) A physician and surgeon provides a written order that
12 specifies the quantity of epinephrine auto-injectors to be furnished.

13 (b) Records regarding the acquisition and disposition of
14 epinephrine auto-injectors furnished pursuant to subdivision (a)
15 shall be maintained by ~~both the a school district or district~~, county
16 office of education, *or charter school* for a period of three years
17 from the date the records were created. The school ~~district or~~
18 *district, county office of education, or charter school* shall be
19 responsible for monitoring the supply of auto-injectors and assuring
20 the destruction of expired auto-injectors.

21 ~~SECTION 1.~~

22 SEC. 2. Section 49414 of the Education Code is amended to
23 read:

24 49414. (a) School districts, county offices of education, and
25 charter schools shall provide emergency epinephrine auto-injectors

1 to trained personnel, and trained personnel may use those
2 epinephrine auto-injectors to provide emergency medical aid to
3 persons suffering, *or reasonably believed to be suffering*, from an
4 anaphylactic reaction.

5 (b) For purposes of this section, the following terms have the
6 following meanings:

7 (1) “Anaphylaxis” means a potentially life-threatening
8 hypersensitivity to a substance.

9 (A) Symptoms of anaphylaxis may include shortness of breath,
10 wheezing, difficulty breathing, difficulty talking or swallowing,
11 hives, itching, swelling, shock, or asthma.

12 (B) Causes of anaphylaxis may include, but are not limited to,
13 an insect sting, food allergy, drug reaction, and exercise.

14 (2) “Epinephrine auto-injector” means a disposable drug delivery
15 system with a spring-activated needle that is designed for
16 emergency administration of epinephrine to provide rapid,
17 convenient first aid for persons suffering a potentially fatal reaction
18 to anaphylaxis.

19 (c) Each private elementary and secondary school in the state
20 may voluntarily determine whether or not to make emergency
21 epinephrine auto-injectors and trained personnel available at its
22 school. In making this determination, a school shall evaluate the
23 emergency medical response time to the school and determine
24 whether initiating emergency medical services is an acceptable
25 alternative to epinephrine auto-injectors and trained personnel. A
26 private elementary or secondary school choosing to exercise the
27 authority provided under this subdivision shall not receive state
28 funds specifically for purposes of this subdivision.

29 (d) ~~Each public elementary and secondary school in the state~~
30 ~~shall, and each private elementary and secondary school in the~~
31 ~~state may, may~~ designate one or more school personnel on a
32 voluntary basis to receive initial and annual refresher training,
33 based on the standards developed pursuant to subdivision ~~(e)~~, (f),
34 regarding the storage and emergency use of an epinephrine
35 auto-injector from the school nurse or other qualified person
36 designated by the local educational agency physician, the medical
37 director of the local health department, or the local emergency
38 medical services director. ~~However, each public school shall~~
39 ~~designate and have trained at least one person for the purposes~~
40 ~~listed in subdivisions (f), (g), and (h).~~

1 (e) Each public elementary and secondary school, including
2 each charter school, shall, if no school personnel volunteers as a
3 designee pursuant to subdivision (d), require a school nurse or, if
4 the school does not have a school nurse or the school nurse is not
5 onsite or available, a school administrator to receive initial and
6 annual refresher training, based on the standards developed
7 pursuant to subdivision (f), regarding the storage and emergency
8 use of an epinephrine auto-injector and for the purposes listed in
9 subdivisions (g), (h), and (i).

10 (e)

11 (f) (1) Every five years, or sooner as deemed necessary by the
12 Superintendent, the Superintendent shall review minimum
13 standards of training for the administration of epinephrine
14 auto-injectors that satisfy the requirements of paragraph (2). For
15 purposes of this subdivision, the Superintendent shall consult with
16 organizations and providers with expertise in administering
17 epinephrine auto-injectors and administering medication in a school
18 environment, including, but not limited to, the State Department
19 of ~~Health Care Services~~, *Public Health*, the Emergency Medical
20 Services Authority, the American Academy of Allergy, ~~Asthma~~,
21 *Asthma* and Immunology, the California School Nurses
22 Organization, the California Medical Association, the American
23 Academy of Pediatrics, Food Allergy Research and Education, the
24 California Society of Allergy, Asthma and Immunology, the
25 American College of Allergy, Asthma and Immunology, and
26 others.

27 (2) Training established pursuant to this subdivision shall include
28 all of the following:

29 (A) Techniques for recognizing symptoms of anaphylaxis.

30 (B) Standards and procedures for the ~~storage~~ *storage, restocking*,
31 and emergency use of epinephrine auto-injectors.

32 (C) Emergency follow-up procedures, including calling the
33 emergency 911 ~~phone~~ *telephone* number and contacting, if possible,
34 the pupil's parent and physician.

35 (D) Instruction and certification in cardiopulmonary
36 resuscitation.

37 (E) Instruction on how to determine whether to use an adult
38 epinephrine auto-injector or a junior epinephrine auto-injector.

39 (F) Written materials covering the information required under
40 this subdivision.

1 (3) Training established pursuant to this subdivision shall be
 2 consistent with the most recent Voluntary Guidelines for Managing
 3 Food Allergies In Schools and Early Care and Education Programs
 4 published by the federal Centers for Disease Control and
 5 Prevention and the most recent guidelines for medication
 6 administration issued by the department.

7 (4) A school shall retain for reference the written materials
 8 prepared under subparagraph (F) of paragraph (2).

9 ~~(f)~~

10 (g) A school ~~nurse, or nurse or~~, if the school does not have a
 11 school nurse or the school nurse is not onsite or available, a school
 12 ~~administrator or his or her designee who has received training~~
 13 ~~pursuant to subdivision (d), administrator~~, shall obtain from the
 14 local educational agency physician, a physician contracting with
 15 the local educational agency, the medical director of the local
 16 health department, or the local emergency medical services director
 17 a prescription for epinephrine auto-injectors that, at a minimum,
 18 ~~includes one adult~~ *includes, for elementary schools, one regular*
 19 *epinephrine auto-injector and one junior epinephrine auto-injector,*
 20 *and for junior high or middle schools and high schools, if there*
 21 *are no pupils who require a junior epinephrine auto-injector, one*
 22 *regular epinephrine auto-injector.* The prescription may be filled
 23 by local or mail order pharmacies or epinephrine auto-injector
 24 manufacturers.

25 ~~(g)~~

26 (h) A school nurse, or if the school does not have a school nurse
 27 or the school nurse is not onsite or available, a school administrator
 28 or his or her *voluntary* designee who has received training pursuant
 29 to subdivision (d), may administer an epinephrine auto-injector to
 30 a person exhibiting potentially life-threatening symptoms of
 31 anaphylaxis at school or a school activity when a physician is not
 32 immediately available. If the epinephrine auto-injector is used it
 33 shall be restocked as soon as reasonably possible. Epinephrine
 34 auto-injectors shall be restocked before their expiration date.

35 ~~(h)~~

36 (i) A person who has received training as set forth in ~~subdivision~~
 37 ~~(d) or a school nurse subdivisions (d) and (e)~~ shall initiate
 38 emergency medical services or other appropriate medical followup
 39 in accordance with the training materials retained pursuant to
 40 paragraph (4) of subdivision ~~(e)~~: (f).

1 ~~(i)~~
2 (j) No later than 30 days after the last day of each school year,
3 the school nurse or ~~designated~~ *voluntarily designated* employee
4 shall report any incident of epinephrine auto-injector use to the
5 school district, county office of education, or chartering authority
6 on a form developed by the department. The school district, county
7 office of education, or chartering authority shall report any incident
8 of epinephrine auto-injector use to the department on the form
9 developed by the department. Without violating federal and state
10 privacy laws, the department shall annually publish the results of
11 the submitted forms on its Internet Web site.

12 ~~(j)~~
13 (k) A school district, county office of education, or charter
14 school using epinephrine auto-injectors for emergency medical
15 aid shall create a plan to address all of the following issues:

16 (1) Designation of the individual or individuals who will provide
17 the training pursuant to subdivision (d).

18 (2) Designation of the local educational agency physician, the
19 medical director of the local health department, or the local
20 emergency medical services director that the school district, county
21 office of education, or charter school will consult for the
22 prescription for epinephrine auto-injectors pursuant to subdivision
23 ~~(f)~~: (g).

24 (3) Documentation as to which individual, the school nurse or
25 ~~other trained person pursuant to subdivision (f)~~, *school*
26 *administrator*, in the school district, county office of education,
27 or charter school will obtain the prescription from the physician
28 and the medication from a pharmacist.

29 (4) Documentation as to where the medication is stored, *when*
30 *the medication was restocked*, and how the medication will be
31 made readily available in case of an emergency.

32 ~~(k)~~
33 (l) A school district, county office of education, or charter school
34 shall ensure that each employee who volunteers under this section
35 will be provided defense and indemnification by the school district,
36 county office of education, or charter school for any and all civil
37 liability, in accordance with, but not limited to, that provided in
38 Division 3.6 (commencing with Section 810) of Title 1 of the
39 Government Code. This information shall be reduced to writing,

1 provided to the volunteer, and retained in the volunteer’s personnel
2 file.

3 ~~(t)~~

4 (m) A public school may accept gifts, grants, and donations
5 from any source for the support of the public school carrying out
6 the provisions of this section, including, but not limited to, the
7 acceptance of epinephrine auto-injectors from a manufacturer or
8 wholesaler.

9 ~~SEC. 2.~~

10 SEC. 3. If the Commission on State Mandates determines that
11 this act contains costs mandated by the state, reimbursement to
12 local agencies and school districts for those costs shall be made
13 pursuant to Part 7 (commencing with Section 17500) of Division
14 4 of Title 2 of the Government Code.