

CHAPTER 57

AN ACT concerning the administration of epinephrine for certain students, amending P.L.1993, c.308 and amending and supplementing P.L.1997, c.368.

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey:*

1. Section 1 of P.L.1993, c.308 (C.18A:40-12.3) is amended to read as follows:

C.18A:40-12.3 Self-administration of medication by pupil permitted.

1. a. A board of education or the governing board or chief school administrator of a nonpublic school shall permit the self-administration of medication by a pupil for asthma or other potentially life-threatening illnesses or a life-threatening allergic reaction provided that:

(1) the parents or guardians of the pupil provide to the board of education or the governing board or chief school administrator of a nonpublic school written authorization for the self-administration of medication;

(2) the parents or guardians of the pupil provide to the board of education or the governing board or chief school administrator of a nonpublic school written certification from the physician of the pupil that the pupil has asthma or another potentially life-threatening illness or is subject to a life-threatening allergic reaction and is capable of, and has been instructed in, the proper method of self-administration of medication;

(3) the board of education or the governing board or chief school administrator of a nonpublic school informs the parents or guardians of the pupil in writing that the district and its employees or agents or the nonpublic school and its employees or agents shall incur no liability as a result of any injury arising from the self-administration of medication by the pupil;

(4) the parents or guardians of the pupil sign a statement acknowledging that the district or the nonpublic school shall incur no liability as a result of any injury arising from the self-administration of medication by the pupil and that the parents or guardians shall indemnify and hold harmless the district and its employees or agents or the nonpublic school and its employees or agents against any claims arising out of the self-administration of medication by the pupil; and

(5) the permission is effective for the school year for which it is granted and is renewed for each subsequent school year upon fulfillment of the requirements in paragraphs (1) through (4) of this subsection.

b. Notwithstanding any other law or regulation to the contrary, a pupil who is permitted to self-administer medication under the provisions of this section shall be permitted to carry an inhaler or prescribed medication for allergic reactions, including a pre-filled auto-injector mechanism, at all times, provided that the pupil does not endanger himself or other persons through misuse.

c. Any person who acts in good faith in accordance with the requirements of this act shall be immune from any civil or criminal liability arising from actions performed pursuant to this act.

2. Section 1 of P.L.1997, c.368 (C.18A:40-12.5) is amended to read as follows:

C.18A:40-12.5 Development of policy for emergency administration of epinephrine via pre-filled auto-injector mechanism to pupil.

1. Each board of education or chief school administrator of a nonpublic school shall

develop a policy in accordance with the guidelines established by the Department of Education pursuant to section 4 of P.L.2007, c.57 (C.18A:40-12.6a) for the emergency administration of epinephrine via a pre-filled auto-injector mechanism to a pupil for anaphylaxis provided that:

a. the parents or guardians of the pupil provide to the board of education or chief school administrator of a nonpublic school written authorization for the administration of the epinephrine;

b. the parents or guardians of the pupil provide to the board of education or chief school administrator of a nonpublic school written orders from the physician or advanced practice nurse that the pupil requires the administration of epinephrine for anaphylaxis;

c. the board or chief school administrator of a nonpublic school informs the parents or guardians of the pupil in writing that the district and its employees or agents or the nonpublic school and its employees or agents shall have no liability as a result of any injury arising from the administration of the epinephrine via a pre-filled auto-injector mechanism;

d. the parents or guardians of the pupil sign a statement acknowledging their understanding that the district or the nonpublic school shall have no liability as a result of any injury arising from the administration of the epinephrine via a pre-filled auto-injector mechanism to the pupil and that the parents or guardians shall indemnify and hold harmless the district and its employees or agents or the nonpublic school and its employees or agents against any claims arising out of the administration of the epinephrine via a pre-filled auto-injector mechanism; and

e. the permission is effective for the school year for which it is granted and is renewed for each subsequent school year upon fulfillment of the requirements in subsections a. through d. of this section.

The policy developed by a board of education or chief school administrator of a nonpublic school shall require:

(1) the placement of a pupil's prescribed epinephrine in a secure but unlocked location easily accessible by the school nurse and designees to ensure prompt availability in the event of an allergic emergency at school or at a school-sponsored function. The location of the epinephrine shall be indicated on the pupil's emergency care plan. Back-up epinephrine shall also be available at the school if needed;

(2) the school nurse or designee to be promptly available on site at the school and school-sponsored functions in the event of an allergic reaction; and

(3) the transportation of the pupil to a hospital emergency room by emergency services personnel after the administration of epinephrine, even if the pupil's symptoms appear to have resolved.

3. Section 2 of P.L.1997, c.368 (C.18A:40-12.6) is amended to read as follows:

C.18A:40-12.6 Policy for administration of epinephrine to pupil.

2. The policy for the administration of medication to a pupil shall provide that the school nurse shall have the primary responsibility for the administration of the epinephrine. The school nurse shall designate, in consultation with the board of education, or chief school administrator of a nonpublic school additional employees of the school district or nonpublic school who volunteer to administer epinephrine via a pre-filled auto-injector mechanism to a pupil for anaphylaxis when the nurse is not physically present at the scene. The school nurse shall determine that:

a. the designees have been properly trained in the administration of the epinephrine via a

pre-filled auto-injector mechanism using standardized training protocols established by the Department of Education in consultation with the Department of Health and Senior Services;

b. the parents or guardians of the pupil consent in writing to the administration of the epinephrine via a pre-filled auto-injector mechanism by the designees;

c. the board or chief school administrator of a nonpublic school informs the parents or guardians of the pupil in writing that the district and its employees or agents or the nonpublic school and its employees and agents shall have no liability as a result of any injury arising from the administration of the epinephrine to the pupil;

d. the parents or guardians of the pupil sign a statement acknowledging their understanding that the district or nonpublic school shall have no liability as a result of any injury arising from the administration of the epinephrine via a pre-filled auto-injector mechanism to the pupil and that the parents or guardians shall indemnify and hold harmless the district and its employees or agents against any claims arising out of the administration of the epinephrine via a pre-filled auto-injector mechanism to the pupil; and

e. the permission is effective for the school year for which it is granted and is renewed for each subsequent school year upon fulfillment of the requirements in subsections a. through d. of this section.

The Department of Education, in consultation with the Department of Health and Senior Services, shall require trained designees for students enrolled in a school who may require the emergency administration of epinephrine for anaphylaxis when the school nurse is not available.

Nothing in this section shall be construed to prohibit the emergency administration of epinephrine via a pre-filled auto-injector mechanism to a pupil for anaphylaxis by the school nurse or other employees designated pursuant to this section when the pupil is authorized to self-administer epinephrine pursuant to section 1 of P.L.1993, c.308 (C.18A:40-12.3), or when there is a coexisting diagnosis of asthma, or when a prescription is received from a licensed health care professional for epinephrine coupled with another form of medication.

C.18A:40-12.6a Guidelines for schools for management of food allergies, administration of epinephrine.

4. The Department of Education, in consultation with the Department of Health and Senior Services, appropriate medical experts, and professional organizations representing school nurses, principals, teachers, and the food allergy community, shall establish and disseminate to each board of education and chief school administrator of a nonpublic school guidelines for the development of a policy by a school district or nonpublic school for the management of food allergies in the school setting and the emergency administration of epinephrine to students for anaphylaxis.

C.18A:40-12.6b Implementation of established guidelines.

5. Each board of education and chief school administrator of a nonpublic school shall implement in the schools of the district or the nonpublic school the guidelines established and disseminated pursuant to section 4 of P.L.2007, c.57 (C.18A:40-12.6a).

C.18A:40-12.6c Training protocols for volunteer designees to administer epinephrine.

6. a. In an effort to assist the certified school nurse in recruiting and training additional school employees as volunteer designees to administer epinephrine for anaphylaxis when the school nurse is not physically present, the Department of Education and the Department of

Health and Senior Services shall jointly develop training protocols, in consultation with the New Jersey School Nurses Association.

b. The certified school nurse, in consultation with the board of education or the chief school administrator of a nonpublic school, shall recruit and train volunteer designees who are determined acceptable candidates by the school nurse within each school building as deemed necessary by the nursing service plan.

C.18A:40-12.6d Immunity from liability.

7. No school employee, including a school nurse, or any other officer or agent of a board of education or nonpublic school shall be held liable for any good faith act or omission consistent with the provisions of P.L.1997, c.368 (C.18A:40-12.5 et seq.), nor shall an action before the New Jersey State Board of Nursing lie against a school nurse for any such action taken by a person designated in good faith by the school nurse pursuant to section 2 of P.L.1997, c.368 (C.18A:40-12.6). Good faith shall not include willful misconduct, gross negligence or recklessness.

8. This act shall take effect immediately.

Approved March 16, 2007.