ASSEMBLY, No. 2734

STATE OF NEW JERSEY
215th LEGISLATURE

INTRODUCED MARCH 12, 2012

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SYNOPSIS
Requires schools to maintain supply of epinephrine and permit administration of epinephrine to any student having anaphylactic reaction.

CURRENT VERSION OF TEXT
As introduced.

(Sponsorship Updated As Of: 11/19/2013)
AN ACT concerning the emergency administration of epinephrine to
students for anaphylaxis and amending P.L.1997, c.368 and
P.L.2007, c.57.

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

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

EXPLANATION – Matter enclosed in bold-faced brackets [thus] in the above bill is
not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.
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.

f. The policy developed by a board of education or chief school administrator of a nonpublic school shall also:

(1) permit the school nurse or trained designee to administer epinephrine via a pre-filled auto-injector mechanism to any pupil whose parent or guardian has not met the requirements of subsections a., b., and d. of this section and has not received the notice required pursuant to subsection c. of this section when the nurse or designee in good faith believes that the pupil is having an anaphylactic reaction; and

(2) require each public and nonpublic school to maintain in a secure but unlocked and easily accessible location a supply of epinephrine auto-injectors that is prescribed under a standing protocol from a licensed physician, and is accessible to the school nurse and trained designees for administration to a pupil having an anaphylactic reaction.

(cf: P.L.2007, c.57, s.2)

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

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. Except as otherwise provided pursuant to subsection f. of section 1 of P.L.1997, c. 368 (C.18A:40-12.5), 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 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 or when the epinephrine is administered pursuant to subsection f. of section 1 of P.L.1997, c.368 (C.18A:40-12.5).

(cf: P.L.2007, c.57, s.3)

3. Section 7 of P.L.2007, c.57 (C.18A:40-12.6d) is amended to read as follows:

7. No school employee, including a school nurse, or any other officer or agent of a board of education or nonpublic school, or a physician providing a prescription under a standing protocol for school epinephrine pursuant to subsection f. of section 1 of P.L. 1997, c. 368 (C.18A:40-12.5), 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.

(cf: P.L.2007, c.57, s.7)

4. This act shall take effect immediately.

STATEMENT

Current law requires boards of education and nonpublic school administrators to develop policies concerning the emergency administration of epinephrine to a student provided that the student’s parent or guardian provides written authorization for administration of the epinephrine and written orders from a physician that the student requires epinephrine for anaphylaxis. This bill would amend the law concerning the emergency administration of epinephrine to require that school nurses and trained designees be permitted to administer epinephrine to any student whose parent has not met the prior authorization and physician order requirements when the nurse or designee in good faith believes that the student is having an anaphylactic reaction. The bill also would require that public and nonpublic schools maintain in a secure but unlocked and easily accessible location a supply of epinephrine auto-injectors that is prescribed under a standing protocol from a licensed physician and is accessible to the school nurse and trained designees for administration to a pupil having an anaphylactic reaction. The bill also amends the law providing immunity from liability to school employees and agents for good faith acts or omissions concerning the emergency administration of epinephrine to specifically include a physician providing a prescription under a standing protocol for school epinephrine.

A growing number of children in the United States have food allergies, which can lead to severe and potentially life-threatening allergic reactions. Receiving an immediate dose of injectable epinephrine for anaphylaxis can be a life-saving measure. A child may experience an allergic reaction for the first time while at school, in which case the child would not have a prior prescription for epinephrine on file with the school. In response to the rise in child food allergies, a number of states have enacted laws allowing schools to maintain a supply of epinephrine not prescribed to an individual student that can be used for any student in an anaphylactic emergency. Similarly, a recently introduced federal bill, the “School Access to Emergency Epinephrine Act,” would encourage states to require that their public elementary and
secondary schools maintain a supply of epinephrine that can be administered to any student believed in good faith to be having an anaphylactic reaction.