

[Third Reprint]

ASSEMBLY, No. 304

STATE OF NEW JERSEY
216th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2014 SESSION

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Assemblymen Wimberly, Fiocchi, O'Donnell, Caputo, Assemblywoman
Pinkin, Assemblyman Singleton, Senators O'Toole, Turner, Beach, Ruiz,
Vitale, A.R.Bucco, Stack, Gordon and Greenstein**

SYNOPSIS

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

CURRENT VERSION OF TEXT

As reported by the Senate Budget and Appropriations Committee on December 8, 2014, with amendments.

(Sponsorship Updated As Of: 12/19/2014)

1 AN ACT concerning the emergency administration of epinephrine to
2 students for anaphylaxis ²**[and]**,² amending ²and supplementing²
3 P.L.1997, c.368 ²,² and ²amending² P.L.2007, c.57.

4
5 **BE IT ENACTED** by the Senate and General Assembly of the State
6 of New Jersey:

7
8 1. Section 1 of P.L.1997, c.368 (C.18A:40-12.5) is amended to
9 read as follows:

10 1. Each board of education or chief school administrator of a
11 nonpublic school shall develop a policy in accordance with the
12 guidelines established by the Department of Education pursuant to
13 section 4 of P.L.2007, c.57 (C.18A:40-12.6a) for the emergency
14 administration of epinephrine via a pre-filled auto-injector
15 mechanism to a pupil for anaphylaxis provided that:

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

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

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

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

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

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

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.

Matter enclosed in superscript numerals has been adopted as follows:

¹Assembly AED committee amendments adopted February 24, 2014.

²Senate SED committee amendments adopted December 1, 2014.

³Senate SBA committee amendments adopted December 8, 2014.

1 (1) the placement of a pupil's prescribed epinephrine in a secure
2 but unlocked location easily accessible by the school nurse and
3 designees to ensure prompt availability in the event of an allergic
4 emergency at school or at a school-sponsored function. The
5 location of the epinephrine shall be indicated on the pupil's
6 emergency care plan. Back-up epinephrine ¹via a pre-filled auto-
7 injector mechanism¹ shall also be available at the school if needed;

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

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

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

16 (1) permit the school nurse or trained designee to administer
17 epinephrine via a pre-filled auto-injector mechanism to any pupil
18 ³without a known history of anaphylaxis or any pupil³ whose parent
19 or guardian has not met the requirements of subsections a., b., and
20 d. of this section and has not received the notice required pursuant
21 to subsection c. of this section when the nurse or designee in good
22 faith believes that the pupil is having an anaphylactic reaction; and

23 (2) require each public and nonpublic school to maintain in a
24 secure but unlocked and easily accessible location a supply of
25 epinephrine auto-injectors that is prescribed under a standing
26 protocol from a licensed physician ²or an advanced practice nurse²,
27 and is accessible to the school nurse and trained designees for
28 administration to a pupil having an anaphylactic reaction.

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

30

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

33 2. The policy for the administration of medication to a pupil
34 shall provide that the school nurse shall have the primary
35 responsibility for the administration of the epinephrine. The school
36 nurse shall designate, in consultation with the board of education, or
37 chief school administrator of a nonpublic school additional
38 employees of the school district or nonpublic school who volunteer
39 to administer epinephrine via a pre-filled auto-injector mechanism
40 to a pupil for anaphylaxis when the nurse is not physically present
41 at the scene. ¹In the event that a licensed athletic trainer volunteers
42 to administer epinephrine, it shall not constitute a violation of the
43 “Athletic Training Licensure Act,” P.L.1984, c.203 (C.45:9-37.35 et
44 seq.).¹

45 **【The】** Except as otherwise provided pursuant to subsection f. of
46 section 1 of P.L.1997, c.368 (C.18A:40-12.5), the school nurse shall
47 determine that:

- 1 a. the designees have been properly trained in the
2 administration of the epinephrine via a pre-filled auto-injector
3 mechanism using standardized training protocols established by the
4 Department of Education in consultation with the Department of
5 Health ¹ [and Senior Services] ¹ ;
- 6 b. the parents or guardians of the pupil consent in writing to the
7 administration of the epinephrine via a pre-filled auto-injector
8 mechanism by the designees;
- 9 c. the board or chief school administrator of a nonpublic school
10 informs the parents or guardians of the pupil in writing that the
11 district and its employees or agents or the nonpublic school and its
12 employees and agents shall have no liability as a result of any injury
13 arising from the administration of the epinephrine to the pupil;
- 14 d. the parents or guardians of the pupil sign a statement
15 acknowledging their understanding that the district or nonpublic
16 school shall have no liability as a result of any injury arising from
17 the administration of the epinephrine via a pre-filled auto-injector
18 mechanism to the pupil and that the parents or guardians shall
19 indemnify and hold harmless the district and its employees or
20 agents against any claims arising out of the administration of the
21 epinephrine via a pre-filled auto-injector mechanism to the pupil;
22 and
- 23 e. the permission is effective for the school year for which it is
24 granted and is renewed for each subsequent school year upon
25 fulfillment of the requirements in subsections a. through d. of this
26 section.

27 The Department of Education, in consultation with the
28 Department of Health ¹ [and Senior Services] ¹ , shall require
29 trained designees for students enrolled in a school who may require
30 the emergency administration of epinephrine for anaphylaxis when
31 the school nurse is not available.

32 Nothing in this section shall be construed to prohibit the
33 emergency administration of epinephrine via a pre-filled auto-
34 injector mechanism to a pupil for anaphylaxis by the school nurse
35 or other employees designated pursuant to this section when the
36 pupil is authorized to self-administer epinephrine pursuant to
37 section 1 of P.L.1993, c.308 (C.18A:40-12.3), or when there is a
38 coexisting diagnosis of asthma, or when a prescription is received
39 from a licensed health care professional for epinephrine coupled
40 with another form of medication, or when the epinephrine is
41 administered pursuant to subsection f. of section 1 of P.L.1997,
42 c.368 (C.18A:40-12.5).

43 (cf: P.L.2012, c.17, s.75)

44

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

1 7. No school employee, including a school nurse, or any other
2 officer or agent of a board of education or nonpublic school, or a
3 physician² or an advanced practice nurse² providing a prescription
4 under a standing protocol for school epinephrine pursuant to
5 subsection f. of section 1 of P.L. 1997, c. 368 (C.18A:40-12.5),
6 shall be held liable for any good faith act or omission consistent
7 with the provisions of P.L.1997, c.368 (C.18A:40-12.5 et seq.), nor
8 shall an action before the New Jersey State Board of Nursing lie
9 against a school nurse for any such action taken by a person
10 designated in good faith by the school nurse pursuant to section 2 of
11 P.L.1997, c.368 (C.18A:40-12.6). Good faith shall not include
12 willful misconduct, gross negligence or recklessness.
13 (cf: P.L.2007, c.57, s.7)

14
15 ²4. (New section) Notwithstanding any law to the contrary,
16 funds appropriated or otherwise made available pursuant to
17 P.L.1991, c.226 (C.18A:40-23 et seq.) may be used to comply with
18 the requirements of subsection f. of section 1 of P.L.1997,
19 c.368 (C.18A:40-12.5) ³in nonpublic schools³ .²

20
21 ²[4.] ²5.² This act shall take effect ²[immediately] in the first
22 full school year following the date of enactment²