

CHAPTER 13

AN ACT concerning the emergency administration of epinephrine to students for anaphylaxis, amending and supplementing P.L.1997, c.368, and amending 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:

C.18A:40-12.5 Development of policy for emergency administration of epinephrine to students.

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 via a pre-filled auto-injector mechanism 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 without a known history of anaphylaxis or 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 or an advanced practice nurse, and is accessible to the school nurse and trained designees for administration to a pupil having an anaphylactic reaction.

2. 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. In the event that a licensed athletic trainer volunteers to administer epinephrine, it shall not constitute a violation of the "Athletic Training Licensure Act," P.L.1984, c.203 (C.45:9-37.35 et seq.).

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 Education in consultation with the Department of Health;

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, 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).

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

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, or a physician or an advanced practice nurse 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.

C.18A:40-12.6e Funds used for compliance in nonpublic schools.

4. Notwithstanding any law to the contrary, funds appropriated or otherwise made available pursuant to P.L.1991, c.226 (C.18A:40-23 et seq.) may be used to comply with the requirements of subsection f. of section 1 of P.L.1997, c.368 (C.18A:40-12.5) in nonpublic schools.

5. This act shall take effect in the first full school year following the date of enactment.

Approved February 5, 2015.