

SB 1266: EFFECTIVE JANUARY 1, 2015 REQUIRED EMERGENCY EPINEPHRINE AUTO-INJECTORS IN SCHOOLS

On September 15, 2014, Governor Jerry Brown signed into law SB 1266 (Chapter 321, Statutes of 2014), which will require certain local education agencies to provide emergency epinephrine auto-injectors to school nurses and trained volunteers to provide emergency aid to persons suffering or reasonably believed to be suffering from an anaphylactic reaction. This law goes into effect on January 1, 2015.

ANAPHYLAXIS AND EPINEPHRINE AUTO-INJECTORS (EAIs)

Anaphylaxis is defined in the law as a potentially life-threatening hypersensitivity to a substance. It can be caused by insect stings, food allergies, drug reactions, and exercise. The symptoms include shortness of breath, wheezing, difficulty breathing, difficulty talking or swallowing, hives, itching, swelling, shock, or asthma. Timely administration of epinephrine to a person suffering an anaphylactic reaction can be life-saving. The new law defines an EAI as a disposable drug delivery system with a spring-activated needle that is designed for emergency administration of epinephrine to provide rapid, convenient first aid for persons suffering a potentially fatal anaphylactic reaction.

NEW REQUIREMENTS FOR LOCAL EDUCATION AGENCIES (LEAs)

The new law applies to school districts, county offices of education, and charter schools (together, LEAs). The law requires the following:

- LEAs must distribute a notice at least once per school year to all staff that contains the following information: (1) A description of the volunteer request, stating that the request is for volunteers to be trained to administer EAI to a pupil if the pupil is suffering, or reasonably believed to be suffering from anaphylaxis. (2) A description of the training that the volunteer will receive.
- The qualified supervisor of health at the agency (often, the school nurse), or if there is no qualified supervisor of health, an administrator at the LEA must obtain from an authorizing physician a prescription for EAIs for each school. The prescription can be filled by a local pharmacy, mail-order pharmacy, or EAI manufacturer.
 - At a minimum, elementary schools are to obtain one regular EAI and one junior EAI
 - Junior high schools, middle schools, and high schools must obtain at least one regular EAI if there are no pupils who require a junior EAI.
- The qualified supervisor of health or administrator is also responsible for stocking the EAIs and restocking each: (1) if it is used, as soon as reasonably possible and no later than 2 weeks from the date of use; and, (2) if it is not used, before its expiration date.

- The LEA is responsible for monitoring the supply of EAIs and ensuring the destruction of expired EAIs.
- The LEA must ensure that each employee who volunteers under this section will be provided defense and indemnification by the school district, COE, or charter school for any and all civil liability. This information must be reduced to writing, provided to the volunteer, and retained in the volunteer's personnel file.
- The LEA must maintain records regarding the acquisition and disposition of EAIs for a period of three years from the date the records were created.
- The LEA must also retain for reference the written materials used to train volunteers.

LIABILITY

An earlier version of the legislation had language providing that the school district, county office of education, and trained personnel shall not be liable for any civil damages resulting from the administration of an EAI to a person reasonably believed to be suffering from an anaphylactic reaction. That language was deleted from the bill in later amendments and is not in the version signed by the Governor. Moreover, because the bill requires school districts to defend and indemnify volunteers who agree to administer epinephrine in an emergency, the bill places a degree of additional liability risk on school districts.

TRAINING

The new law requires the Superintendent of Public Instruction to develop minimum standards of training for the administration of EAIs. The training shall be developed in consultation with organizations and providers with expertise in administering EAIs, and shall be consistent with the most recent Voluntary Guidelines for Managing Food Allergies In Schools and Early Care and Education Programs published by the federal Centers for Disease Control and Prevention (CDC) and the most recent guidelines for medication administration issued by the California Department of Education (CDE). The training must include all of the following:

- Techniques for recognizing the symptoms of anaphylaxis
- Standards and procedures for the storage, restocking, and emergency use of EAIs
- Emergency follow-up procedures, including calling the emergency 911 telephone number and contacting, if possible, the pupil's parent and physician
- Recommendations on the necessity of instruction and certification in cardiopulmonary resuscitation (CPR)
- Instructions on how to determine whether to use an adult EAI or a junior one, which shall include consideration of a pupil's grade level or age as a guideline of equivalency for the appropriate pupil weight determination

- Written materials covering the information required above.

Every K-12 school in the state may designate one or more volunteers to receive initial and annual refresher training based on the above standards regarding the storage and use of EAI's.

COSTS

Costs of EAI's range from \$112 to \$192 per two-pack. Costs will vary depending on use at each school site; EAI's are typically only good for one year before they need to be replaced, and schools may require more each year if they have cause to use them. LEA's will also incur costs to notify staff of the ability to volunteer to administer epinephrine and to provide associated volunteer training.

These costs could be partially offset to the extent schools are able to access free EAI's through certain manufacturers. For example, EAI distributor Mylan Specialty currently operates a program called EpiPen4Schools that offers four free EpiPen or EpiPen Jr Auto-Injectors to public and private schools with a prescription. The program is currently scheduled to run until 2015, and it is unclear whether Mylan Specialty will extend the program.

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