

## AB 1386 AND AB 1748: EFFECTIVE JANUARY 1, 2017 NEW EMERGENCY DRUG TREATMENT OPTIONS FOR SCHOOLS

Two bills signed by Governor Brown in September 2016 will give local educational agencies (LEAs) a greater ability to administer life-saving treatments to students. AB 1386 (Chapter 347, Statutes of 2016) builds on prior legislation, including SB 1266 (Chapter 321, Statutes of 2014), which required LEAs to provide emergency epinephrine auto-injectors (EAI) to school nurses or trained personnel who had volunteered to administer epinephrine as emergency aid to persons suffering from an anaphylactic reaction. It also builds on SB 738 (Chapter 132, Statutes of 2015) which amended Education Code Section 49414 clarifying physician immunity for providing prescriptions. AB 1748 authorizes school nurses and other trained personnel to use an opioid antagonist to provide emergency aid to persons suffering from an opioid overdose.

### **AB 1386—EPINEPHRINE AUTO-INJECTORS**

This is the second clean-up bill passed after the enactment of SB 1266, which required LEAs to provide EAI to school nurses and trained volunteers. In 2015, the legislature passed SB 738 (Chapter 132, Statutes of 2015), which expressly exempts physicians from liability, prosecution or professional review for issuing a prescription or order for an EAI, unless the issuance of the prescription or order constitutes gross negligence or willful or malicious conduct.

Effective January 1, 2017, AB 1386 expressly allows pharmacies to furnish EAI to authorized entities and gives authorized entities greater immunity from civil liability. AB 1386 permits health care providers to issue a prescription for, and a pharmacy to dispense, an epinephrine auto-injector to an authorized entity (including a LEA) if the authorized entity submits evidence it employs at least one person, or utilizes at least one volunteer or agent, who is trained and has a current epinephrine auto-injector certification card issued by the California Emergency Medical Services Authority (EMSA).

The new law also broadens the definition of EAI by eliminating the reference in the statute to a spring-activated needle. Instead, it defines an EAI as a "disposable delivery device designed for automatic injection of a premeasured dose of epinephrine into the human body to prevent or treat a life-threatening allergic reaction."

AB 1386 also requires an authorized entity that possesses and makes available epinephrine auto-injectors to create and maintain on its premises an operations plan that includes:

- The name and contact number for the health care provider who prescribed the EAI.
- Where and how the EAI will be stored.
- The names of the designated employees or agents who have completed the required training program and who are authorized to administer the EAI.
- How and when the EAI will be inspected for an expiration date.

- The process to replace the expired EAI, including the proper disposal of the expired or used EAI in a sharps container.

The law provides authorized entities with immunity from civil liability for damages resulting from any act or omission, other than an act or omission constituting gross negligence or willful or wanton misconduct, connected to the administration of an epinephrine auto-injector by any one of its employees, volunteers, or agents who is a lay rescuer. The law also provides that the failure of an authorized entity to possess or administer an epinephrine auto-injector shall not result in civil liability.

Finally, AB 1386 imposes some additional reporting and recordkeeping requirements on authorized entities. It requires an authorized entity that possesses and makes available EAIs to submit to EMSA a report of each incident involving the use of an EAI, within 30 days after each use. It requires the authorized entity to maintain records regarding the acquisition and disposition of EAIs for three years.

## **ASSISTING WITH COMPLIANCE**

Through the PRIME program, Keenan developed a resource “EipPen4Schools Program and FAQ” which can be found through this link or on P&C Bridge.

[http://www.keenan.com/news/brief/2015/BRF\\_20150826\\_SB738EpiPenNewLeg\\_KA.pdf](http://www.keenan.com/news/brief/2015/BRF_20150826_SB738EpiPenNewLeg_KA.pdf)

## **AB 1748—OPIOID ANTAGONISTS**

Effective January 1, 2017, this new law authorizes school districts, county offices of education (COEs) and charter schools to provide emergency naxolone hydrochloride (often known by the brand name Narcan) or another opioid antagonist to school nurses or trained personnel who have volunteered. The law allows each public and private school to voluntarily determine whether or not to make opioid antagonists and trained volunteers available at its school. Schools are to take into consideration the response time of emergency medical personnel to their school when making the decision as to whether to stock the drug and make trained volunteers available. Schools choosing to stock the drugs and provide volunteer training must provide the training at no cost to the volunteers and during the volunteers’ regular work hours.

AB 1748 allows school nurses or trained personnel to administer an opioid antagonist to provide emergency aid to a person suffering or reasonably believed to be suffering from an opioid overdose. A school cannot grant or withhold a benefit from any individual based on his or her offer to volunteer. Modeled after AB 1266, AB 1748 allows school personnel to volunteer to be trained to administer the drug as emergency first aid. The law also limits the method of administration of this class of drugs to nasal spray or auto-injector, and states that a volunteer should be allowed to administer the drug in the form the volunteer is most comfortable with. Employees who volunteer may rescind their offer to administer emergency opioid antagonists at any time, including after the receipt of training. It is prohibited by the law to retaliate against an individual for rescinding.

The law also requires LEAs to ensure in writing that each employee who volunteers is provided a defense and indemnification from civil liability, as well as prohibiting a person who has been trained and administers an opioid antagonist in good faith and not for compensation from being subject to civil liability, criminal prosecution or professional review, except in cases of gross negligence or willful and wanton misconduct.

With regard to acquisition of an opioid antagonist, the law authorizes pharmacies to provide the drugs to LEAs without a prescription in the State of California. CVS and Walgreens will sell Narcan without a prescription in their stores in California. The LEA must maintain records of the acquisition and disposition of the opioid antagonist for at least three years. The LEA is required to monitor the supply of opioid antagonist and ensure the destruction of expired drugs. LEAs who elect to stock an opioid antagonist must, at least once every school year, distribute a notice to all staff describing the volunteer request and the training volunteers will receive, stating the right of an employee to rescind the offer to volunteer, and stating that no benefit will be granted or withheld in connection with volunteering and no retaliation will be made for rescinding the offer to volunteer.

The law directs the Superintendent of Public Instruction to consult with experts in establishing minimum standards for the training and to review these standards every five years. The minimum standards will include training on recognizing the symptoms of opioid overdose, procedures for storage and emergency use of opioid antagonists, and basic emergency follow-up procedures after administering the drug. It also requires the California Department of Education to include on its website a clearinghouse for best practices in training non-medical personnel to administer opioid antagonists.

For questions regarding this *Briefing*, please contact your Keenan Account Manager.

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