

BILL ANALYSIS

Senate Research Center

H.B. 1849
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Health & Human Services
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Engrossed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

H.B. 1849 amends the Human Resources Code to authorize a state-licensed physician, or a person who has been delegated prescriptive authority, to prescribe epinephrine auto-injectors in the name of a day-care center. H.B. 1849 requires the physician or other person who prescribes the epinephrine auto-injectors to provide the day-care center with a standing order for the administration of an epinephrine auto-injector to a person reasonably believed to be experiencing anaphylaxis. H.B. 1849 sets out the required contents of the standing order, establishes that the order is not required to be patient-specific, and authorizes an epinephrine auto-injector to be administered under the order to a person without a previously established physician-patient relationship.

H.B. 1849 establishes that supervision or delegation by a physician is considered adequate if the physician periodically reviews the order and is available through direct telecommunication as needed for consultation, assistance, and direction. H.B. 1849 makes each day-care center responsible for training employees in the administration of an epinephrine auto-injector, sets out requirements for the training, requires each day-care center to maintain records on the training, and authorizes the auto-injector to be dispensed by a pharmacist without requiring any identifying information relating to the user.

H.B. 1849 requires the day-care center, not later than the 10th business day after the date an employee administers an epinephrine auto-injector, to report certain information prescribed by H.B. 1849 about that administration to the following:

- the day-care center's owner;
- the physician or other person who prescribed the epinephrine auto-injector;
- the Health and Human Services Commission; and
- the Department of State Health Services.

H.B. 1849 grants a person who in good faith takes, or fails to take, action relating to the prescription of an epinephrine auto-injector to a day-care center or the administration of an epinephrine auto-injector in a day-care center immunity from civil or criminal liability or disciplinary action resulting from that action or failure to act. Those immunities and protections are in addition to other immunities or limitations of liability provided by law. H.B. 1849 establishes that its provisions do not create a civil, criminal, or administrative cause of action or liability or create a standard of care, obligation, or duty that provides a basis for a cause of action for an act or omission under H.B. 1849's provisions and that an act or omission described by those provisions does not create a cause of action.

H.B. 1849 amends current law relating to the possession and administration of epinephrine auto-injectors in day-care centers, and limits liability.

RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to the executive commissioner of the Health and Human Services Commission, in consultation with the Department of State Health Services, in SECTION 1 (Section 42.067, Human Resources Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Subchapter C, Chapter 42, Human Resources Code, by adding Section 42.067, as follows:

Sec. 42.067. EPINEPHRINE AUTO-INJECTORS; IMMUNITY FROM LIABILITY. (a) Defines "anaphylaxis," "epinephrine auto-injector," and "physician."

(b) Authorizes a physician, or a person who has been delegated prescriptive authority under Chapter 157 (Authority of Physician to Delegate Certain Medical Acts), Occupations Code, to prescribe epinephrine auto-injectors in the name of a day-care center.

(c) Requires a physician or other person who prescribes epinephrine auto-injectors under Subsection (b) to provide the day-care center with a standing order for the administration of an epinephrine auto-injector to a person reasonably believed to be experiencing anaphylaxis.

(d) Provides that a standing order under Subsection (c) is not required to be patient-specific. Authorizes an epinephrine auto-injector to be administered under this section to a person without a previously established physician-patient relationship.

(e) Provides that supervision or delegation by a physician, notwithstanding any other law, is considered adequate if the physician periodically reviews the order and is available through direct telecommunication as needed for consultation, assistance, and direction.

(f) Requires an order issued under this section to contain:

- (1) the name and signature of the prescribing physician or other person;
- (2) the name of the day-care center to which the order is issued;
- (3) the quantity of epinephrine auto-injectors to be obtained and maintained under the order; and
- (4) the date the order was issued.

(g) Authorizes a pharmacist to dispense an epinephrine auto-injector to a day-care center without requiring the name of or any other identifying information relating to the user.

(h) Requires a day-care center to store an epinephrine auto-injector in a secure location that is easily accessible to employees or volunteers of the day-care center authorized and trained to administer an epinephrine auto-injector.

(i) Provides that each day-care center is responsible for training employees in the administration of an epinephrine auto-injector. Requires the training to:

- (1) include information on:
 - (A) recognizing the signs and symptoms of anaphylaxis;
 - (B) administering an epinephrine auto-injector;
 - (C) the recommended dosages for adults and children by age and weight, if applicable, and the dosages available at the center;

(D) implementing emergency procedures, if necessary, after administering an epinephrine auto-injector; and

(E) the proper disposal of used or expired epinephrine auto-injectors; and

(2) be completed annually in a formal training session or through online education.

(j) Requires each day-care center to maintain records on the training required under this section.

(k) Requires the day-care center, not later than the 10th business day after the date a day-care center employee administers an epinephrine auto-injector in accordance with this section, to report the following information to the persons listed in Subsection (l):

(1) the age of the person who received the administration of the epinephrine auto-injector;

(2) whether the person who received the administration of the epinephrine auto-injector was:

(A) a child enrolled in the day-care center;

(B) a day-care center employee or volunteer; or

(C) a visitor to the day-care center;

(3) the physical location where the epinephrine auto-injector was administered;

(4) the number of doses of epinephrine auto-injector administered;

(5) the title of the employee who administered the epinephrine auto-injector; and

(6) any other information required by the executive commissioner.

(l) Requires the information required by Subsection (k) to be reported to:

(1) the owner of the day-care center;

(2) the physician or other person who prescribed the epinephrine auto-injector;

(3) the Health and Human Services Commission (HHSC); and

(4) the Department of State Health Services (DSHS).

(m) Requires the executive commissioner of HHSC (executive commissioner), in consultation with DSHS, to adopt rules necessary to implement this section.

(n) Provides that a person who in good faith takes, or fails to take, action relating to the prescription of an epinephrine auto-injector to a day-care center or the administration of an epinephrine auto-injector in a day-care center is immune from civil or criminal liability or disciplinary action resulting from that action or failure to act, including:

(1) issuing an order for epinephrine auto-injectors;

- (2) supervising or delegating the administration of an epinephrine auto-injector;
- (3) possessing, maintaining, storing, or disposing of an epinephrine auto-injector;
- (4) prescribing an epinephrine auto-injector;
- (5) dispensing an epinephrine auto-injector;
- (6) administering, or assisting in administering, an epinephrine auto-injector;
- (7) providing, or assisting in providing, training, consultation, or advice in the development, adoption, or implementation of policies, guidelines, rules, or plans; or
- (8) undertaking any other act permitted or required under this section.

(o) Provides that the immunities and protections provided by this section are in addition to other immunities or limitations of liability provided by law.

(p) Provides that, notwithstanding any other law, this section does not create a civil, criminal, or administrative cause of action or liability or create a standard of care, obligation, or duty that provides a basis for a cause of action for an act or omission under this section.

(q) Requires a day-care center, if a day-care center obtains epinephrine auto-injectors for use as authorized by this section, to notify each parent of a child enrolled in the center of the center's policy and procedures relating to the administration of the epinephrine auto-injectors.

(r) Provides that an act or omission described by this section does not create a cause of action.

SECTION 2. Effective date: upon passage or September 1, 2019.