

1-1 By: Klick (Senate Sponsor - Menéndez) H.B. No. 1849
 1-2 (In the Senate - Received from the House April 3, 2019;
 1-3 April 4, 2019, read first time and referred to Committee on Health
 1-4 & Human Services; May 17, 2019, reported favorably by the following
 1-5 vote: Yeas 9, Nays 0; May 17, 2019, sent to printer.)

1-6 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-7				
1-8	X			
1-9	X			
1-10	X			
1-11	X			
1-12	X			
1-13	X			
1-14	X			
1-15	X			
1-16	X			

1-17 A BILL TO BE ENTITLED
 1-18 AN ACT

1-19 relating to the possession and administration of epinephrine
 1-20 auto-injectors in day-care centers; limiting liability.

1-21 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-22 SECTION 1. Subchapter C, Chapter 42, Human Resources Code,
 1-23 is amended by adding Section 42.067 to read as follows:

1-24 Sec. 42.067. EPINEPHRINE AUTO-INJECTORS; IMMUNITY FROM
 1-25 LIABILITY. (a) In this section:

1-26 (1) "Anaphylaxis" means a sudden, severe, and
 1-27 potentially life-threatening allergic reaction that occurs when a
 1-28 person is exposed to an allergen.

1-29 (2) "Epinephrine auto-injector" means a disposable
 1-30 medical drug delivery device that contains a premeasured single
 1-31 dose of epinephrine intended for use to treat anaphylaxis.

1-32 (3) "Physician" means a person who holds a license to
 1-33 practice medicine in this state.

1-34 (b) A physician, or a person who has been delegated
 1-35 prescriptive authority under Chapter 157, Occupations Code, may
 1-36 prescribe epinephrine auto-injectors in the name of a day-care
 1-37 center.

1-38 (c) A physician or other person who prescribes epinephrine
 1-39 auto-injectors under Subsection (b) shall provide the day-care
 1-40 center with a standing order for the administration of an
 1-41 epinephrine auto-injector to a person reasonably believed to be
 1-42 experiencing anaphylaxis.

1-43 (d) A standing order under Subsection (c) is not required to
 1-44 be patient-specific. An epinephrine auto-injector may be
 1-45 administered under this section to a person without a previously
 1-46 established physician-patient relationship.

1-47 (e) Notwithstanding any other law, supervision or
 1-48 delegation by a physician is considered adequate if the physician:

1-49 (1) periodically reviews the order; and
 1-50 (2) is available through direct telecommunication as
 1-51 needed for consultation, assistance, and direction.

1-52 (f) An order issued under this section must contain:

1-53 (1) the name and signature of the prescribing
 1-54 physician or other person;

1-55 (2) the name of the day-care center to which the order
 1-56 is issued;

1-57 (3) the quantity of epinephrine auto-injectors to be
 1-58 obtained and maintained under the order; and

1-59 (4) the date the order was issued.

1-60 (g) A pharmacist may dispense an epinephrine auto-injector
 1-61 to a day-care center without requiring the name of or any other

2-1 identifying information relating to the user.

2-2 (h) A day-care center shall store an epinephrine
2-3 auto-injector in a secure location that is easily accessible to
2-4 employees or volunteers of the day-care center authorized and
2-5 trained to administer an epinephrine auto-injector.

2-6 (i) Each day-care center is responsible for training
2-7 employees in the administration of an epinephrine auto-injector.
2-8 The training must:

2-9 (1) include information on:

2-10 (A) recognizing the signs and symptoms of
2-11 anaphylaxis;

2-12 (B) administering an epinephrine auto-injector;

2-13 (C) the recommended dosages for adults and
2-14 children by age and weight, if applicable, and the dosages
2-15 available at the center;

2-16 (D) implementing emergency procedures, if
2-17 necessary, after administering an epinephrine auto-injector; and

2-18 (E) the proper disposal of used or expired
2-19 epinephrine auto-injectors; and

2-20 (2) be completed annually in a formal training session
2-21 or through online education.

2-22 (j) Each day-care center shall maintain records on the
2-23 training required under this section.

2-24 (k) Not later than the 10th business day after the date a
2-25 day-care center employee administers an epinephrine auto-injector
2-26 in accordance with this section, the day-care center shall report
2-27 the following information to the persons listed in Subsection (l):

2-28 (1) the age of the person who received the
2-29 administration of the epinephrine auto-injector;

2-30 (2) whether the person who received the administration
2-31 of the epinephrine auto-injector was:

2-32 (A) a child enrolled in the day-care center;

2-33 (B) a day-care center employee or volunteer; or

2-34 (C) a visitor to the day-care center;

2-35 (3) the physical location where the epinephrine
2-36 auto-injector was administered;

2-37 (4) the number of doses of epinephrine auto-injector
2-38 administered;

2-39 (5) the title of the employee who administered the
2-40 epinephrine auto-injector; and

2-41 (6) any other information required by the executive
2-42 commissioner.

2-43 (l) The information required by Subsection (k) shall be
2-44 reported to:

2-45 (1) the owner of the day-care center;

2-46 (2) the physician or other person who prescribed the
2-47 epinephrine auto-injector;

2-48 (3) the commission; and

2-49 (4) the Department of State Health Services.

2-50 (m) The executive commissioner, in consultation with the
2-51 Department of State Health Services, shall adopt rules necessary to
2-52 implement this section.

2-53 (n) A person who in good faith takes, or fails to take,
2-54 action relating to the prescription of an epinephrine auto-injector
2-55 to a day-care center or the administration of an epinephrine
2-56 auto-injector in a day-care center is immune from civil or criminal
2-57 liability or disciplinary action resulting from that action or
2-58 failure to act, including:

2-59 (1) issuing an order for epinephrine auto-injectors;

2-60 (2) supervising or delegating the administration of an
2-61 epinephrine auto-injector;

2-62 (3) possessing, maintaining, storing, or disposing of
2-63 an epinephrine auto-injector;

2-64 (4) prescribing an epinephrine auto-injector;

2-65 (5) dispensing an epinephrine auto-injector;

2-66 (6) administering, or assisting in administering, an
2-67 epinephrine auto-injector;

2-68 (7) providing, or assisting in providing, training,
2-69 consultation, or advice in the development, adoption, or

3-1 implementation of policies, guidelines, rules, or plans; or
3-2 (8) undertaking any other act permitted or required
3-3 under this section.

3-4 (o) The immunities and protections provided by this section
3-5 are in addition to other immunities or limitations of liability
3-6 provided by law.

3-7 (p) Notwithstanding any other law, this section does not
3-8 create a civil, criminal, or administrative cause of action or
3-9 liability or create a standard of care, obligation, or duty that
3-10 provides a basis for a cause of action for an act or omission under
3-11 this section.

3-12 (q) If a day-care center obtains epinephrine auto-injectors
3-13 for use as authorized by this section, the day-care center shall
3-14 notify each parent of a child enrolled in the center of the center's
3-15 policy and procedures relating to the administration of the
3-16 epinephrine auto-injectors.

3-17 (r) An act or omission described by this section does not
3-18 create a cause of action.

3-19 SECTION 2. This Act takes effect immediately if it receives
3-20 a vote of two-thirds of all the members elected to each house, as
3-21 provided by Section 39, Article III, Texas Constitution. If this
3-22 Act does not receive the vote necessary for immediate effect, this
3-23 Act takes effect September 1, 2019.

3-24 * * * * *