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State of Minnesota

HOUSE OF REPRESENTATIVES

EIGHTY-EIGHTH SESSION

H. F. No. **688**

02/18/2013 Authored by Winkler, Schoen, Hansen, Wills, Schomacker and others
The bill was read for the first time and referred to the Committee on Education Policy

- 1.1 A bill for an act
- 1.2 relating to education; allowing schools to maintain a supply of epinephrine
- 1.3 auto-injectors; providing immunity from liability; amending Minnesota Statutes
- 1.4 2012, sections 121A.22, subdivision 2; 121A.2205; 604A.31, by adding a
- 1.5 subdivision; proposing coding for new law in Minnesota Statutes, chapter 121A.
- 1.6 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:
- 1.7 Section 1. Minnesota Statutes 2012, section 121A.22, subdivision 2, is amended to read:
- 1.8 Subd. 2. **Exclusions.** In addition, this section does not apply to drugs or medicine
- 1.9 that are:
- 1.10 (1) purchased without a prescription;
- 1.11 (2) used by a pupil who is 18 years old or older;
- 1.12 (3) used in connection with services for which a minor may give effective consent,
- 1.13 including section 144.343, subdivision 1, and any other law;
- 1.14 (4) used in situations in which, in the judgment of the school personnel who are
- 1.15 present or available, the risk to the pupil's life or health is of such a nature that drugs or
- 1.16 medicine should be given without delay;
- 1.17 (5) used off the school grounds;
- 1.18 (6) used in connection with athletics or extra curricular activities;
- 1.19 (7) used in connection with activities that occur before or after the regular school day;
- 1.20 (8) provided or administered by a public health agency to prevent or control an
- 1.21 illness or a disease outbreak as provided for in sections 144.05 and 144.12;
- 1.22 (9) prescription asthma or reactive airway disease medications self-administered by
- 1.23 a pupil with an asthma inhaler if the district has received a written authorization from the
- 1.24 pupil's parent permitting the pupil to self-administer the medication, the inhaler is properly
- 1.25 labeled for that student, and the parent has not requested school personnel to administer

the medication to the pupil. The parent must submit written authorization for the pupil to self-administer the medication each school year; or

(10) ~~prescription nonsyringe injectors of epinephrine~~ auto-injectors, consistent with section 121A.2205, if the parent and prescribing medical professional annually inform the pupil's school in writing that (i) the pupil may possess the epinephrine or (ii) the pupil is unable to possess the epinephrine and requires immediate access to ~~nonsyringe injectors of epinephrine~~ auto-injectors that the parent provides properly labeled to the school for the pupil as needed, or consistent with section 121A.2207.

Sec. 2. Minnesota Statutes 2012, section 121A.2205, is amended to read:

121A.2205 POSSESSION AND USE OF NONSYRINGE INJECTORS OF EPINEPHRINE AUTO-INJECTORS; MODEL POLICY.

Subdivision 1. Definitions. As used in this section:

(1) "administer" means the direct application of an epinephrine auto-injector to the body of an individual;

(2) "epinephrine auto-injector" means a device that automatically injects a premeasured dose of epinephrine;

(3) "school" means a public school under section 120A.22, subdivision 4, or a nonpublic school, excluding a home school, under section 120A.22, subdivision 4, that is subject to the federal Americans with Disabilities Act.

Subd. 2. Plan for use of epinephrine auto-injectors. (a) At the start of each school year or at the time a student enrolls in school, whichever is first, a student's parent, school staff, including those responsible for student health care, and the prescribing medical professional must develop and implement an individualized written health plan for a student who is prescribed ~~nonsyringe injectors of epinephrine~~ auto-injectors that enables the student to:

(1) possess ~~nonsyringe injectors of epinephrine~~ auto-injectors; or

(2) if the parent and prescribing medical professional determine the student is unable to possess the epinephrine, have immediate access to ~~nonsyringe injectors of epinephrine~~ auto-injectors in close proximity to the student at all times during the instructional day.

The plan must designate the school staff responsible for implementing the student's health plan, including recognizing anaphylaxis and administering ~~nonsyringe injectors of epinephrine~~ auto-injectors when required, consistent with section 121A.22, subdivision 2, clause (10). This health plan may be included in a student's 504 plan.

(b) ~~A school under this section is a public school under section 120A.22, subdivision 4, or a nonpublic school, excluding a home school, under section 120A.22, subdivision 4,~~

that is subject to the federal Americans with Disabilities Act. Other nonpublic schools are encouraged to develop and implement an individualized written health plan for students requiring ~~nonsyringe injectors of~~ epinephrine auto-injectors, consistent with this section and section 121A.22, subdivision 2, clause (10).

(c) A school district and its agents and employees are immune from liability for any act or failure to act, made in good faith, in implementing this section.

(d) The education commissioner may develop and transmit to interested schools a model policy and individualized health plan form consistent with this section and federal 504 plan requirements. The policy and form may:

(1) assess a student's ability to safely possess ~~nonsyringe injectors of~~ epinephrine auto-injectors;

(2) identify staff training needs related to recognizing anaphylaxis and administering epinephrine when needed;

(3) accommodate a student's need to possess or have immediate access to ~~nonsyringe injectors of~~ epinephrine auto-injectors in close proximity to the student at all times during the instructional day; and

(4) ensure that the student's parent provides properly labeled ~~nonsyringe injectors of~~ epinephrine auto-injectors to the school for the student as needed.

(e) Additional ~~nonsyringe injectors of~~ epinephrine auto-injectors may be available in school first aid kits.

(f) The school board of the school district must define instructional day for the purposes of this section.

Sec. 3. [121A.2207] LIFE-THREATENING ALLERGIES IN SCHOOLS; GUIDELINES; STOCK SUPPLY OF EPINEPHRINE AUTO-INJECTORS; EMERGENCY ADMINISTRATION.

Subdivision 1. Schools permitted to maintain supply. Notwithstanding section 151.37, schools may obtain and possess epinephrine auto-injectors to be maintained and administered according to this section. A school may maintain a stock supply of epinephrine auto-injectors.

Subd. 2. Use of supply. (a) The governing body of a school may authorize school nurses and designated school personnel to administer an epinephrine auto-injector to any student or other individual based on guidelines under subdivision 4, regardless of whether the student or other individual has a prescription for an epinephrine auto-injector if:

(1) the school nurse or designated person believes in good faith that an individual is experiencing anaphylaxis; and

4.1 (2) the person experiencing anaphylaxis is on school premises or off school premises
4.2 at a school-sponsored event.

4.3 (b) The administration of an epinephrine auto-injector in accordance with this
4.4 section is not the practice of medicine.

4.5 Subd. 3. **Arrangements with manufacturers.** A school may enter into
4.6 arrangements with manufacturers of epinephrine auto-injectors or third-party suppliers
4.7 of epinephrine auto-injectors to obtain epinephrine auto-injectors at fair-market, free, or
4.8 reduced prices. A third party, other than a manufacturer or supplier, may pay for the
4.9 school's supply of epinephrine auto-injectors.

4.10 Subd. 4. **School policies required for use of epinephrine auto-injector.** The
4.11 governing authority of a school permitting administration of epinephrine auto-injectors
4.12 pursuant to subdivision 2 shall develop guidelines and plan for implementation of the
4.13 guidelines, which shall include: (1) education and training for designated school personnel
4.14 on the management of students with life-threatening allergies, including training related to
4.15 the administration of an epinephrine auto-injector; and (2) procedures for identification
4.16 of anaphylaxis and responding to life-threatening allergic reactions. In developing the
4.17 guidelines, the school must consider applicable model rules and include input from
4.18 interested community stakeholders. The guidelines must include a requirement to call
4.19 emergency medical services when an epinephrine auto-injector from the school's stock
4.20 supply is administered. The governing body of a school shall make the guidelines and plan
4.21 available on the governing authority's Web site or the Web site of each school under the
4.22 governing authority's jurisdiction, or if the Web sites do not exist, make the plan publicly
4.23 available through other practicable means as determined by the governing authority. Each
4.24 school shall maintain a log of each incident at the school or related school event involving
4.25 the administration of an epinephrine auto-injector.

4.26 Subd. 5. **Immunity from liability.** A school and its employees and agents,
4.27 including a physician, advanced practice registered nurse, or physician assistant providing
4.28 a prescription or standing protocol for school epinephrine auto-injectors, is immune from
4.29 liability for any act or failure to act, made in good faith, in implementing this section. The
4.30 immunity from liability provided under this subdivision is in addition to and not in lieu
4.31 of that provided under section 604A.01.

4.32 Sec. 4. Minnesota Statutes 2012, section 604A.31, is amended by adding a subdivision
4.33 to read:

4.34 Subd. 5. **Administration of epinephrine auto-injectors.** Schools and other persons
4.35 involved in the development of protocols, providing prescriptions, and the administration

- 5.1 of epinephrine auto-injectors are immune from liability as provided in section 121A.2207,
- 5.2 subdivision 5.