

CHAPTER 342
FORMERLY
SENATE BILL NO. 246
AS AMENDED BY
SENATE AMENDMENT NO. 1

AN ACT TO AMEND TITLE 16 OF THE DELAWARE CODE RELATING TO EMERGENCY MEDICATION IN SCHOOLS.

WHEREAS, the American Academy of Pediatrics has estimated that one in 25 school aged children are affected by food allergies, and has stated that food allergies are the most common trigger of anaphylaxis among school aged children; and

WHEREAS, anaphylaxis is a severe, potentially fatal, systemic allergic reaction that occurs suddenly after contact with an allergy-causing substance; and

WHEREAS, studies have indicated that 16% to 18% of children with food allergies have experienced a reaction in school; and

WHEREAS, approximately 25% of all anaphylaxis cases triggered by food allergies occur in children whose food allergy was previously undiagnosed; and

WHEREAS, the Centers for Disease Control and Prevention have stated that delays in using epinephrine have resulted in near fatal and fatal allergy reactions in schools; and

WHEREAS, the Centers for Disease Control and Prevention have therefore recommended that schools consider keeping multiple doses of epinephrine onsite so they can respond quickly to a food allergy emergency; and

WHEREAS, the federal School Access to Emergency Epinephrine Act was signed into law in 2013, and provides preference in receiving certain federal public health grants to states whose public schools maintain supplies of epinephrine and ensure that trained personnel are present and can administer epinephrine to students reasonably believed to be having anaphylactic reactions and can receive appropriate legal protection for doing so; and

WHEREAS, the State of Delaware's Division of Public Health has already issued Medical Emergency Standing Orders for Allergic Reactions and Anaphylaxis for Use by Public/Charter School Registered Nurses that include a requirement that epinephrine be located on-site at each school.

NOW THEREFORE:

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

Section 1. Amend Chapter 30, Title 16 of the Delaware Code as follows:

CHAPTER 30E. SCHOOL ACCESS TO EMERGENCY MEDICATION ACT

§ 3001E Definitions.

As used in this chapter:

(1) "Emergency Medication" means a medication necessary for response to a life-threatening allergic reaction.

(2) "Licensed Healthcare Provider" means anyone lawfully authorized to prescribe medications and treatments.

(3) "School" means an educational facility serving students in kindergarten through grade 12, and any associated pre-kindergarten program in such facility.

(4) "School Nurse" means a Registered Nurse employed by a local education agency meeting the certification and licensure requirements of the employing agency.

(5) "Trained Person" means an educator, coach or person hired or contracted by schools serving students in pre-kindergarten through grade 12 who has completed the training to administer Emergency Medicine to diagnosed and undiagnosed individuals.

(6) "Without an Order" means that the School Nurse or Trained Person may administer Emergency Medication, as further described within this Chapter, without an individual prescription from a Licensed Healthcare Provider for a person to receive the Emergency Medication. In lieu of a Licensed Healthcare Provider's order, i.e., an individual prescription, the Division of Public Health will issue guidance for administration Emergency Medication in the School setting. The Division of Public Health will continue to provide Medical Emergency

Standing Orders for Allergic Reactions and Anaphylaxis in Previously Undiagnosed Individuals for Use by Public / Charter School Registered Nurses.

§ 3002E. Responsibilities of the Department of Education.

(a) The Department of Education shall adopt rules and regulations regarding Emergency Medication, including but not limited to the training of Trained Persons and documentation thereof; and the storage, provision and administration of Emergency Medication and documentation thereof.

§ 3003E. Responsibilities of the Division of Public Health.

(a) The Division of Public Health shall provide guidance on the administration of Emergency Medications without an Order in the school setting to undiagnosed individuals. The Division of Public Health will continue to provide Medical Emergency Standing Orders for Allergic Reactions and Anaphylaxis in Previously Undiagnosed Individuals for Use by Public / Charter School Registered Nurses.

§ 3004E. Responsibilities of the School.

(a) The School Nurse, in consultation with the school administration, shall identify and train a sufficient number of eligible persons willing or required by position to become Trained Persons to administer Emergency Medication.

(b) The School shall maintain stock Emergency Medication.

§ 3005E. Training.

(a) The Department of Education shall develop, for approval by the Division of Public Health, a training course to prepare Trained Persons to administer Emergency Medications to diagnosed and undiagnosed individuals.

(b) Except for a school nurse, an educator, coach or person hired or contracted by schools serving students in pre-kindergarten through grade 12 shall not be compelled to become a Trained Person, unless this is a requirement of hire or contract.

§ 3006E. Storage of Emergency Medication.

(a) Emergency Medication which shall be administered by the School Nurse, shall be located in a secure but accessible area which is easily accessible to the School Nurse.

(b) Emergency Medication which shall be administered by a Trained Person, shall be located in a secure but accessible area, which is identified by the School as easily accessible.

§ 3007E Provision of limited liability protections.

(a) Any Trained Person or School Nurse, who, in good faith and without expectation of compensation from the person aided or treated, renders emergency care or treatment in response to an apparent allergic reaction by the use of an Emergency Medication shall not be liable for damages for injuries alleged to have been sustained by the aided or treated person or for damages for the death of the aided or treated person alleged to have occurred by reason of an act or omission in the rendering of such emergency care or treatment, unless it is established that such injuries or such death were caused wilfully, wantonly or by gross negligence on the part of the trained person or school nurse who rendered the emergency care or treatment by the use of an Emergency Medication.

Approved July 21, 2014