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EMERGENCY STOCKS OF EPIPENS IN SCHOOLS

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This report provides information on state and federal legislation that allows schools to maintain an emergency stock of epinephrine auto-injectors (EpiPens) to administer to any student experiencing a life-threatening allergic reaction (i.e., anaphylaxis).

SUMMARY

While nearly all states (including Connecticut) allow students to carry their prescribed EpiPen at school, some states have also passed laws allowing schools to maintain a supply of EpiPens not prescribed to a particular student that can be used in an emergency. We found four states (Louisiana, Maryland, Nebraska, and Virginia) that require schools to maintain an emergency stock of EpiPens and eleven states (California, Georgia, Illinois, Kansas, Kentucky, Massachusetts, Missouri, New York, Texas, Utah, and Washington) that permit it. In addition, the U.S. House of Representatives passed, and the U.S. Senate is considering, legislation that would incentivize states to require schools to maintain EpiPen stocks to administer to students without prescriptions in emergency situations.

Below we provide some examples of these states' laws and a summary of the proposed federal legislation.

STATE LAWS THAT REQUIRE OR PERMIT EPIPEN STOCKS IN SCHOOLS

Illinois

In 2011, the Illinois legislature passed the “Emergency Epinephrine Act,” which allows (1) schools to stock a supply of EpiPens; (2) physicians to write prescriptions in the name of a school district or nonpublic school, instead of an individual student; and (3) school nurses to administer the epinephrine to any student believed to be experiencing anaphylaxis.

Specifically, the law allows the school to use this emergency supply of EpiPens if a student:

1. does not carry or have an EpiPen prescription on file with the school and is having a first-time anaphylactic reaction or
2. has a known allergy but forgot his or her EpiPen (in this case, the student or school nurse may administer the EpiPen).

The law provides specific liability protections for school personnel and prescribing physicians regardless of whether a student has an EpiPen prescription on file with the school ([105 ILCS 22-30\(c\)](#)).

While some school districts, including Chicago, have stocked EpiPens in schools under the law, others have yet to do so due to difficulty in finding physicians comfortable with issuing a standing order and prescription for the medication. In response, the state’s Attorney General released a toolkit to educate both schools and physicians on the law and its implementation.

Kentucky

In 2013, the Kentucky legislature passed a [law](#) that encourages each school to keep an EpiPen in at least two different locations at all times, to the extent that they are donated to a school or the school has sufficient funds to purchase them. The medication must be administered by trained school employees, who the law absolves from liability for administering the EpiPens. It requires the state’s Department for Public Health to develop clinical protocols to address the storage and administration of the EpiPens ([KRS § 158.836](#)).

Virginia

In 2012, Virginia enacted a [law](#) requiring local school boards to adopt and implement policies for each school to possess and administer epinephrine during the school day, at school-sponsored activities, or while on a school bus or school property. EpiPens are administered by school nurses or trained school board employees to any student believed to be having an anaphylactic reaction. Those who administer the medication are immune from liability. Local health department physicians issued standing orders to school districts and trained school board employees on how to identify anaphylaxis symptoms. The state allocated \$200,000 to purchase the EpiPens for the schools at the start of the 2012-2013 school year (Code of Virginia [§§ 22.1-274.2](#) and [8.01-226.5:1](#)).

Washington

In 2013, the Washington legislature enacted a [law](#) allowing school districts and nonpublic schools to maintain a supply of EpiPens for school nurses or designated trained school personnel to administer to students experiencing anaphylaxis. Physicians and other health professionals with prescriptive authority can prescribe the medication to the school district or nonpublic school and must provide a standing order for the medication.

If a student is harmed due to the administration of the EpiPen:

1. licensed health professionals and pharmacists may not be liable for the injury unless they issued the prescription with a conscious disregard for safety; and
2. school employees, schools, school districts, the governing board, and the chief administrator are not liable if the school employee administering the epinephrine did so in substantial compliance with a prescription and district policies.

School employees, except licensed nurses, who do not wish to administer EpiPens as part of their job, may file a written letter of refusal with the local school district. This letter may not serve as grounds for actions negatively affecting the employee's contract status.

The law requires the Office of Superintendent of Public Instruction to recommend whether to designate other trained school employees to administer EpiPens to students without prescriptions when a school nurse is unavailable (Wash. Rev. Code [§ 28A.210](#))

PROPOSED FEDERAL LEGISLATION

This July, the U.S. House of Representatives passed the “Schools Access to Emergency Epinephrine Act,” ([H.R. 2094](#)) which incentivizes states to require elementary and secondary schools to maintain, and permit trained school personnel to administer, EpiPens in schools. Specifically, states that adopt such laws would be given priority for federal asthma prevention and education grant funding. The Senate Committee on Health, Education, Labor, and Pensions is currently considering companion legislation ([S. 1503](#)).

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