Department of Legislative Services

Maryland General Assembly
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FISCAL AND POLICY NOTE
Revised

Senate Bill 815 (Senator Shank)

Education, Health, and Environmental Affairs Ways and Means

Public and Nonpublic Schools - Epinephrine Availability and Use - Policy

This bill authorizes each nonpublic school in the State to establish a policy authorizing school personnel to administer auto-injectable epinephrine, if available, to a student who is determined to be or perceived to be in anaphylaxis, regardless of whether the student (1) has been identified as having an anaphylactic allergy or (2) has a prescription for epinephrine as prescribed by an authorized licensed health care practitioner. The policy must also include training by a qualified health care practitioner for school personnel on how to recognize the signs and symptoms of anaphylaxis, procedures for the emergency administration of auto-injectable epinephrine, proper follow-up emergency procedures, a provision authorizing certain school personnel to obtain and store auto-injectable epinephrine to be used in an emergency situation, specified parental notification, and an ongoing process for oversight and monitoring of the policy by a licensed health care practitioner. The bill also alters the policies that a local board of education must establish to generally conform to the provisions discussed above for nonpublic schools.

The bill takes effect July 1, 2013.

Fiscal Summary

State Effect: Finances of the Maryland State Department of Education (MSDE) are not affected.

Local Effect: Local public school systems can implement the bill's requirements with existing resources.

Small Business Effect: None. To the extent that nonpublic schools are small businesses, the bill authorizes, but does not require, the specified epinephrine policy and related training and procedures.

Analysis

Bill Summary: Except for any willful or grossly negligent act, public and nonpublic school personnel who respond in good faith to the anaphylactic reaction of a child under provisions of the bill may not be held personally liable for any act or omission in the course of responding to the reaction.

Current Law: Each local board of education *must* establish a policy for *public* schools within its jurisdiction to authorize the school nurse and other school personnel to administer auto-injectable epinephrine, if available, to a student who is determined to be or perceived to be in anaphylaxis, regardless of whether the student (1) has been identified as having an anaphylactic allergy or (2) has a prescription for epinephrine as prescribed by an authorized licensed health care practitioner. The policy must also include training for school personnel on how to recognize the symptoms of anaphylaxis, procedures for the emergency administration of auto-injectable epinephrine, proper follow-up emergency procedures, and a provision authorizing a school nurse to obtain and store at a public school auto-injectable epinephrine to be used in an emergency situation.

A principal of a public school in which a student has an anaphylactic allergy must take steps, in consultation with a school health professional, to reduce the child's risk of exposure to anaphylactic causative agents and to establish procedures for self-administration of medication for anaphylaxis. A local school board employee who responds in good faith with respect to treatment of students having anaphylactic allergic reactions is immune from civil liability for any act or omission in the course of responding to the reaction. If the child has authority to self-administer medication, a local board of education may require the parent or guardian of the child to sign a statement acknowledging that the school or its employee incurs no liability as a result of injury arising from self-administration by the child.

The Department of Health and Mental Hygiene (DHMH) administers the Insect Sting Emergency Treatment Program. The program provides certification to qualified individuals to possess epinephrine and administer epinephrine to a person suffering or believed to be suffering a severe adverse reaction to an insect sting. A certificate holder is immune from civil liability for any act or omission in the course of responding in good faith to the reaction, except where the conduct amounts to gross negligence, willful or wanton misconduct, or intentionally tortuous conduct.

A nonpublic school, except a school operated by a bona fide church organization, may not operate in the State without a certificate of approval from the State Board of Education. A nonpublic school must obtain and maintain documentation verifying

compliance with health, fire safety, and zoning regulations applicable to a nonpublic school in order to attain and retain certification.

Background: Allergens such as insect stings or bites, foods, latex, and medications are common causes of anaphylaxis, and it may also be induced through exercise. According to the National Institutes of Health, the prevalence of food allergies is 5% in children and 4% in adults. Kidshealth.org attributes most food allergies to eight common foods: milk, eggs, peanuts, soy, wheat, tree nuts, fish, and shellfish. Allergic reactions can range from mild skin rashes to gastrointestinal discomfort to severe anaphylaxis, which causes swelling of the airways and breathing difficulty. In severe cases, it can lead to loss of consciousness or death. The most common treatment for anaphylaxis is epinephrine, which often comes in the form of a pre-dosed auto-injector that can be administered with minimal training.

According to guidelines developed by MSDE and DHMH regarding the management of students at risk for anaphylactic reaction, each individual with a known history of anaphylaxis or severe allergies should have a child-specific emergency action plan and an individual auto-injectable epinephrine available in school. However, the guidelines note that each local school system should also have a procedure or protocol that addresses what to do in the event that the parent has not provided an epinephrine auto-injector. Each local jurisdiction must also have a plan that includes, among other things, what to do if a nurse is not available to administer the auto-injectable epinephrine and school staff that will be designated to administer auto-injector epinephrine in the event of an allergen exposure.

The guidelines further state that the school nurse should develop an emergency plan for all students with a diagnosis of anaphylaxis or at risk for anaphylaxis, as documented by a health care provider. This plan should be developed to communicate how and where the auto-injector epinephrine should be placed to be secure and immediately accessible to all designated school personnel and the emergency protocol in the event of an allergen exposure.

MSDE and DHMH have also published guidelines entitled *Emergency Management Guidelines for Individuals in Schools with an Unknown History of Anaphylaxis or Severe Allergic Reaction*. Since individuals with an unknown history of anaphylaxis do not have an individual order from a health care provider directing school health staff how to respond, a decision must be made on whether to have auto-injector epinephrine available for individuals without a known history of anaphylaxis or severe allergic reactions.

Local Fiscal Effect: It is assumed that the health services divisions of local public school systems can alter training procedures as well as policies regarding storage and use of auto-injectable epinephrine with existing expertise and resources.

Additional Information

Prior Introductions: None.

Cross File: HB 1014 (Delegate Stein) – Ways and Means.

Information Source(s): Maryland State Department of Education, Department of Legislative Services

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