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FISCAL AND POLICY NOTE
Revised

House Bill 497 (Delegate Myers, *et al.*)
Ways and Means Education, Health, and Environmental Affairs

Public Schools - Epinephrine Availability and Use - Policy Requirements

This bill requires each local board of education to 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.

The bill takes effect July 1, 2012.

Fiscal Summary

State Effect: The Maryland State Department of Education (MSDE) can develop the required auto-injectable epinephrine incident report form using existing resources.

Local Effect: Local school system expenditures increase minimally to implement the required training program for school personnel. Assuming school nurses will decide to make stock auto-injectable epinephrine available, annual school system expenditures will increase.

Small Business Effect: None.

Analysis

Bill Summary: Each public school must submit, on the form that MSDE requires, a report on each incident at the school or at a related school event that required the use of auto-injectable epinephrine. MSDE must develop and disseminate a standard form to report each incident requiring the use of auto-injectable epinephrine at a public school.

Current Law: With the assistance of the local health department, each local board of education must provide adequate school health services; instruction in health education; and a healthful school environment. MSDE and the Department of Health and Mental Hygiene (DHMH) must jointly develop public standards and guidelines for school health programs and offer assistance to the local boards of education and local health departments in their implementation.

MSDE and DHMH must jointly establish guidelines for public schools regarding emergency medical care for students with special health needs. The guidelines must include procedures for the emergency administration of medication and the proper follow-up emergency procedures; a description of parental or caregiver responsibilities; a description of school responsibilities; a description of student responsibilities that are age and condition appropriate; and any other issue that is relevant to the emergency medical care of student with special health needs. MSDE and DHMH must provide technical assistance to schools to implement the guidelines established, train school personnel at the local level, and develop a process to monitor the implementation of the guidelines.

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 procedure for self-administration of medication for anaphylaxis.

In consultation with a school health professional, a school principal or the principal's designee must monitor the strategies developed in accordance with the Maryland State School Health Service guidelines to reduce the risk of exposure to anaphylactic causative agents and designate a peanut- and tree nut-free table in the cafeteria. A school may revoke a child's authority to self-administer medication if the child misuses the medication.

An 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.

According to the Code of Maryland Regulations (COMAR), a nurse may delegate the responsibility to perform a nursing task to an unlicensed individual, a certified nursing assistant, or a medication technician. The delegating nurse retains the accountability for the nursing task. A nursing task delegated by the nurse must be within the area of responsibility of the nurse delegating the act; such that, in the judgment of the nurse, it can be properly and safely performed without jeopardizing the client welfare; and a task that a reasonable and prudent nurse would find is within the scope of sound nursing judgment.

Background: According to the National Institutes of Health, the prevalence of food allergies is between 6% and 8% in children younger than age four and 3.7% in adults, and appears to be increasing. 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, each local school system must determine if schools will have auto-injector

epinephrine available for individuals without a known history of anaphylaxis or severe allergic reactions. Since auto-injectable epinephrine generally requires a prescription, keeping a stock supply at the school requires the local school health services program to have a physician-directed nursing protocol. A nursing protocol outlines the procedures for administering epinephrine and is signed by a physician and a nursing supervisor.

According to an informal survey by MSDE, 10 local school systems (Allegany, Anne Arundel, Baltimore, Caroline, Calvert, Carroll, Charles, Harford, Kent, and Talbot counties) do have a nursing protocol for the use of stock epinephrine, 8 local school systems do not have a nursing protocol, and 6 did not respond to the survey.

According to the Nurse Practice Act, in COMAR, a nurse may delegate the responsibility to perform a nursing task such as administering auto-injectable epinephrine to an unlicensed individual; however, the decision to delegate the task must be based on the professional judgment of the nurse and cannot be made automatically.

Local Expenditures: Local school system expenditures increase minimally to implement the required training program for school personnel. Local school system expenditures may include hiring substitutes or providing teacher stipends to allow teachers to attend training; however, the training is not expected to be extensive as auto-injectable epinephrine can be administered with minimal training. Costs will be less to the extent training is already provided.

Assuming school nurses will decide to make stock auto-injectable epinephrine available, annual school expenditures will increase. It is unknown what price the local school systems will pay for auto-injectable epinephrine, but the cost to the general public is around $125 per dose. Total costs will be higher if each school is required to have a stock supply of auto-injectable epinephrine, which expires and must be replaced regularly. There may also be costs associated with the safe disposal of used and expired auto-injectable epinephrine. To the extent local school systems currently have stock auto-injectable epinephrine, costs will be mitigated.

Additional Information

Prior Introductions: None.

Cross File: SB 621 (Senator Shank, *et al.*) - Education, Health, and Environmental Affairs..

Information Source(s): Maryland State Department of Education, Department of Health and Mental Hygiene, Maryland Association of Boards of Education, Department of Legislative Services

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