

BOARD AGENDA ITEM
September 13, 2016

SUBJECT:

Changes to Policy JLCD Assisting Students with Medicines

BACKGROUND:

Section 53-63-95(C)(3) of the South Carolina Code of Laws states that school district governing authorities may authorize school nurses and other designated personnel to “administer an epinephrine auto-injector to a student or other individual on school premises whom the school nurse or other designated school personnel believes in good faith is experiencing anaphylaxis, in accordance with a standing protocol of a physician, an advanced practice registered nurse licensed to prescribe medication pursuant to Section 40-33-34, or a physician assistant licensed to prescribe medication pursuant to Sections 40-47-955 through 40-47-965, regardless of whether the student or other individual has a prescription for an epinephrine auto-injector.”

ADMINISTRATIVE CONSIDERATION:

Mylan, the manufacturer of the EpiPen epinephrine auto-injector, is proving EpiPens to schools free of charge as part of its *EpiPens 4 Schools* program. If the *EpiPens 4 Schools* program is discontinued schools could return to the current practice of stocking vials of epinephrine and syringes.

RECOMMENDATION:

Approve the proposed changes on first reading

ATTACHMENT:

Policy JLCD Assisting Students with Medicines
S.C. Code of Laws, Section 53-63-95 Safe Access to Vital Epinephrine (SAVE) Act.

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ASSISTING STUDENTS WITH MEDICINES

Code **JLCD** Issued **8/14**

Purpose: To establish structure for assisting students with medications in a school setting.

When possible, medications should be given by parents/legal guardians before or after school hours. Any prescription medication to be given at school or school related activities must be accompanied by written orders from a healthcare practitioner who is recognized by South Carolina's Department of Labor, Licensing and Regulation as authorized to prescribe medications. Over the counter medications will not require a written order from the healthcare practitioner. A written order from the healthcare practitioner will be required for herbal/alternative medicinal products and over the counter medication doses that are different than the directions as stated on the original label.

The school nurse will train unlicensed school personnel to assist with routine medications. If the nurse is absent, the school does not have a full time nurse assigned or the nurse is not present in the health office because of other duties or assignments the principal or his/her designee is responsible for assisting students with medications.

Medications must be brought to the school by a responsible adult and delivered to the school nurse, or, in the absence of the nurse, to the school employee designated by the principal. The responsible adult delivering medication to the school may be required to count and sign in medication with the nurse or designated employee.

Eligible students may be allowed to self-monitor and self-medicate unless there is sufficient evidence that unsupervised self-monitoring or self-medication would seriously jeopardize the safety of the student or others. The decision to allow the recommendation of the student's healthcare practitioner will be determined by the school team comprised of the parent/legal guardian, school nurse, physician and the school administrator. The registered nurse will write an individual healthcare plan which meets the needs of students for health monitoring and care during the school day or at school sponsored events.

Unlicensed school employees may be trained by the school nurse to provide emergency medication to students with an identified chronic health condition.

Schools may stock epinephrine auto-injectors to be administered to a student or other individual on school premises whom the school nurse or other designated school personnel believes in good faith is experiencing anaphylaxis in accordance with the district's standing protocol, as allowed by the Safe Access to Vital Epinephrine (SAVE) Act.

Schools will comply with state law regarding prescriptions for controlled substances in Schedules II through IV and administrative rule JLCD-R.

Adopted 2/8/00; Revised 4/23/02, 6/27/06, 8/12/14

Legal references:

- A. S.C. Code of Laws, 1976, as amended:
 - 1. Section 40-33-70 - Amends law relating to on-site supervision of a nurse.
 - 2. Sections 59-63-80 and 90 - Policy for individual healthcare plan for certain students.
 - 3. Section 15-78-60 - Immunity from liability for districts and employees.
 - 4. Section 44-53-360 - Prescriptions.

SECTION 59-63-95. Epinephrine auto-injectors; obtaining, storing, dispensing, administering, and self-administering; immunity from liability.

(A) As used in this section, and unless the specific context indicates otherwise:

(1) "Administer" means the direct application of an epinephrine auto-injector into the body of a person.

(2) "Advanced practice registered nurse" means a registered nurse prepared for an advanced practice registered nursing role by virtue of the additional knowledge gained through an advanced formal education program in a specialty area pursuant to Chapter 33, Title 40.

(3) "Designated school personnel" means an employee, agent, or volunteer of a school designated by the governing authority of the school district or the governing authority of the private school who has completed the training required in accordance with the guidelines of the governing authority to provide for or administer an epinephrine auto-injector to a student.

(4) "Epinephrine auto-injector" means a device that automatically injects a premeasured dose of epinephrine into a person.

(5) "Governing authority of a school" means the board of trustees of a school district or the board of trustees of a private school.

(6) "Participating governing authorities" means governing authorities of school districts and governing authorities of private schools that authorize schools to maintain a supply of undesignated epinephrine auto-injectors and to provide and administer epinephrine auto-injectors to students and other people pursuant to subsections (B) and (C).

(7) "Physician" means a doctor of medicine licensed by the South Carolina Board of Medical Examiners pursuant to Article 1, Chapter 47, Title 40.

(8) "Physician assistant" means a health care professional licensed to assist with the practice of medicine with a physician supervisor pursuant to Article 7, Chapter 47, Title 40.

(9) "Provide" means to supply one or more epinephrine auto-injectors to a student or other person.

(10) "School" means a public or private school.

(11) "Self-administration" means a student or other person's discretionary use of an epinephrine auto-injector, whether provided by the student or the other person or by a school nurse or other designated school personnel pursuant to this section.

(B) Notwithstanding another provision of law, a physician, an advanced practice registered nurse licensed to prescribe medication pursuant to Section 40-33-34, and a physician assistant licensed to prescribe medication pursuant to Sections 40-47-955 through 40-47-965 may prescribe epinephrine

auto-injectors maintained in the name of a school for use in accordance with subsection (D). Notwithstanding another provision of law, licensed pharmacists and physicians may dispense epinephrine auto-injectors in accordance with a prescription issued pursuant to this subsection. Notwithstanding another provision of law, a school may maintain a stock supply of epinephrine auto-injectors in accordance with a prescription issued pursuant to this subsection. For the purposes of administering and storing epinephrine auto-injectors, schools are not subject to Chapter 43, Title 40 or Chapter 99 of the South Carolina Code of State Regulations.

(C) The governing authority of a school district or private school may authorize school nurses and other designated school personnel to:

(1) provide an epinephrine auto-injector to a student to self-administer the epinephrine auto-injector in accordance with a prescription specific to the student that is on file with the school;

(2) administer an epinephrine auto-injector to a student in accordance with a prescription specific to the student on file with the school;

(3) administer an epinephrine auto-injector to a student or other individual on school premises whom the school nurse or other designated school personnel believes in good faith is experiencing anaphylaxis, in accordance with a standing protocol of a physician, an advanced practice registered nurse licensed to prescribe medication pursuant to Section 40-33-34, or a physician assistant licensed to prescribe medication pursuant to Sections 40-47-955 through 40-47-965, regardless of whether the student or other individual has a prescription for an epinephrine auto-injector.

(D) The governing authority of a school district or the governing authority of a private school may enter into arrangements with manufacturers of epinephrine auto-injectors or third-party suppliers of epinephrine auto-injectors to obtain epinephrine auto-injectors at fair-market, free, or reduced prices.

(E) Participating governing authorities, in consultation with the State Department of Education and the Department of Health and Environmental Control, shall implement a plan for the management of students with life-threatening allergies enrolled in the schools under their jurisdiction. The plan must include, but need not be limited to:

(1) education and training for school personnel on the management of students with life-threatening allergies, including training related to the administration of an epinephrine auto-injector, techniques on how to recognize symptoms of severe allergic reactions, including anaphylaxis, and the standards and procedures for the storage and administration of an epinephrine auto-injector;

(2) procedures for responding to life-threatening allergic reactions, including emergency follow-up procedures; and

(3) a process for the development of individualized health care and allergy action plans for every student with a known life-threatening allergy.

(F) Participating governing authorities shall make the plan developed pursuant to subsection (E) available on the websites of the school district and private school governing authorities and on the websites of schools; however, if a school does not have a website, make the plan publicly available through other practicable means as determined by participating governing authorities.

(G) This section applies only to participating governing authorities.

(H)(1) A school, school district, school district governing authority, private school governing authority, the Department of Health and Environmental Control, the State Department of Education, and employees, volunteers, and other agents of all of those entities including, but not limited to, a physician, advanced practice registered nurse, physician assistant, pharmacist, school nurse, and other designated school personnel, who undertake an act identified in item (2), are not liable for damages caused by injuries to a student or another person resulting from the administration or self-administration of an epinephrine auto-injector, regardless of whether:

(a) the student's parent or guardian, or a physician, advanced practice registered nurse, or physician assistant, authorized the administration or self-administration; or

(b) the other person to whom a school nurse or other designated school personnel provides or administers an epinephrine auto-injector gave authorization for the administration.

(2) The immunity granted pursuant to item (1) applies to individuals and entities who:

(a) develop or implement, or participate in the development or implementation of, a plan, pursuant to subsection (E), including, but not limited to, providing training to school nurses and other designated school personnel;

(b) make publicly available a plan, pursuant to subsection (F);

(c) prescribe epinephrine auto-injectors, pursuant to subsection (B);

(d) dispense epinephrine auto-injectors, pursuant to subsection (B);

(e) provide epinephrine auto-injectors to students or other people for self-administration, pursuant to subsection (C); or

(f) administer epinephrine auto-injectors to students or other people, pursuant to subsection (C).

(3) The immunity granted pursuant to this subsection:

(a) does not apply to acts or omissions constituting gross negligence or wilful, wanton, or reckless conduct; and

(b) is in addition to, and not in lieu of, immunity provided pursuant to Sections 15-1-310, 15-78-10, and

any other provisions of law.

(4) The administration of an epinephrine auto-injector pursuant to this section is not the practice of medicine or nursing.

HISTORY: 2013 Act No. 37, § 2, eff June 7, 2013.