

Enrolled
Senate Bill 611

Sponsored by COMMITTEE ON HEALTH CARE AND HUMAN SERVICES

CHAPTER

AN ACT

Relating to severe allergies; creating new provisions; amending ORS 339.867, 339.869, 339.871, 433.810, 433.820, 433.825 and 433.830; and declaring an emergency.

Be It Enacted by the People of the State of Oregon:

SECTION 1. ORS 339.867 is amended to read:

339.867. As used in ORS 339.869 and 339.870, “medication” means [*noninjectable*] medication **that is not injected, except for premeasured doses of epinephrine that are injected.**

SECTION 2. ORS 339.869 is amended to read:

339.869. (1) The State Board of Education, in consultation with the Oregon Health Authority, the Oregon State Board of Nursing and the State Board of Pharmacy, shall adopt:

(a) Rules for the administration of prescription and nonprescription medication to students by trained school personnel and for student self-medication. The rules shall include age appropriate guidelines and training requirements for school personnel.

(b) **Rules for the administration of premeasured doses of epinephrine by school personnel trained as provided by ORS 433.815 to any student or other individual on school premises who the personnel believe in good faith is experiencing a severe allergic reaction, regardless of whether the student or individual has a prescription for epinephrine.**

(c) **Guidelines for the management of students with life-threatening food allergies, which must include:**

(A) **Standards for the education and training of school personnel to manage students with life-threatening allergies.**

(B) **Procedures for responding to life-threatening allergic reactions.**

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

(D) **Protocols for preventing exposures to allergens.**

(2)(a) School district boards shall adopt policies and procedures that provide for:

(A) The administration of prescription and nonprescription medication to students by trained school personnel [*and for*];

(B) Student self-medication[.]; **and**

(C) **The administration of premeasured doses of epinephrine to students and other individuals.**

(b) [*Such*] Policies and procedures **adopted under paragraph (a) of this subsection** shall be consistent with the rules adopted by the State Board of Education under subsection (1) of this section. A school district board shall not require school personnel who have not received appropriate training to administer medication.

SECTION 3. Section 4 of this 2013 Act is added to and made a part of ORS 433.800 to 433.830.

SECTION 4. Educational training on the treatment of allergic responses, as required by ORS 433.800 to 433.830, may be conducted by a public health authority or organization or by a person who has successfully completed educational training as described in ORS 433.815. The training curricula under this section must include the following subjects:

- (1) Recognition of the symptoms of systemic allergic responses to insect stings and other allergens;
- (2) Familiarity with common factors that are likely to elicit systemic allergic responses;
- (3) Proper administration of an intramuscular or subcutaneous injection of epinephrine for severe allergic responses to insect stings and other specific allergens; and
- (4) Necessary follow-up treatment.

SECTION 5. ORS 433.810 is amended to read:

433.810. The Oregon Health Authority shall:

(1) Adopt rules necessary for the administration of ORS 433.800 to 433.830, including defining circumstances under which ORS 433.800 to 433.815 and 433.825 and section 4 of this 2013 Act shall apply. The authority shall include input from the educational system, health care provider organizations and other interested parties when adopting rules or amending those rules.

(2) Develop or approve protocols for educational training as described in ORS 433.815 and section 4 of this 2013 Act, including the use of mechanisms for periodic retraining of individuals, and provide the protocols for educational training upon request to schools, health care professionals, parents or guardians of students or other interested parties.

SECTION 6. ORS 433.820 is amended to read:

433.820. A person eligible to receive the training described in ORS 433.815 and section 4 of this 2013 Act must meet the following requirements:

- (1) Be 18 years of age or older; and
- (2) Have, or reasonably expect to have, responsibility for or contact with at least one other person as a result of the eligible person's occupational or volunteer status, such as camp counselors, scout leaders, school personnel, forest rangers, tour guides or chaperones.

SECTION 7. ORS 433.825 is amended to read:

433.825. (1)(a) A person who has successfully completed educational training described in ORS 433.815 for severe allergic responses may receive from any health care professional with appropriate prescriptive privileges licensed under ORS chapter 677 or 678 in this state a prescription for premeasured doses of epinephrine and the necessary paraphernalia for administration.

(b) An entity that employs a person described in paragraph (a) of this subsection may acquire premeasured doses of epinephrine and the necessary paraphernalia for administration in accordance with paragraph (c) of this subsection. A health care practitioner with appropriate prescriptive privileges licensed under ORS chapter 677 or 678 may write a prescription for premeasured doses of epinephrine and the necessary paraphernalia in the name of an entity that employs a person described in paragraph (a) of this subsection.

(c) [The] A person described in paragraph (a) of this subsection may possess and administer, in an emergency situation when a licensed health care professional is not immediately available, [such] prescribed epinephrine to any person suffering a severe allergic response.

(2) A person who has successfully completed educational training in the administration of glucagon as described in ORS 433.815 for hypoglycemia may receive from the parent or guardian of a student doses of glucagon prescribed by a health care professional with appropriate prescriptive privileges licensed under ORS chapter 677 or 678 in this state, as well as the necessary paraphernalia for administration. The person may possess and administer glucagon to the student for whom the glucagon is prescribed, if the student is suffering a severe hypoglycemic reaction in an emergency situation when a licensed health care professional is not immediately available and other treatment has failed or cannot be initiated.

SECTION 8. ORS 433.830 is amended to read:

433.830. (1) No cause of action shall arise against a person who has successfully completed an educational training program described in ORS 433.815 **or section 4 of this 2013 Act** for any act or omission of the person when acting in good faith while rendering emergency treatment pursuant to the authority granted by ORS 433.800 to 433.830, except where such conduct can be described as wanton misconduct.

(2) No cause of action shall arise against an institution, facility, agency or organization when acting in good faith to allow for the rendering of emergency treatment pursuant to the authority granted by ORS 433.800 to 433.830, except where such conduct can be described as wanton misconduct.

SECTION 9. If House Bill 2749 becomes law, ORS 339.871, as amended by section 2, chapter _____, Oregon Laws 2013 (Enrolled House Bill 2749), is amended to read:

339.871. (1) A school administrator, school nurse, teacher or other school employee designated by the school administrator is not liable in a criminal action or for civil damages as a result of a student's [use] **self-administration** of medication, as described in ORS 339.866, if the school administrator, school nurse, teacher or other school employee, in compliance with the instructions of the student's Oregon licensed health care professional, in good faith[:]

[*(a)*] assists the student's self-administration of the medication, if the medication is available to the student pursuant to written permission and instructions of the student's parent, guardian or Oregon licensed health care professional. [*; or*]

[*(b)*] **(2) A school administrator, school nurse, teacher or other school employee designated by the school administrator is not liable in a criminal action or for civil damages as a result of the use of medication if the school administrator, school nurse, teacher or other school employee in good faith administers autoinjectable epinephrine to a student or other individual with a severe allergy who is unable to self-administer the medication[, if the autoinjectable epinephrine is available for the student pursuant to written permission and instructions of the student's parent, guardian or Oregon licensed health care professional], regardless of whether the student or individual has a prescription for epinephrine.**

[*(2)*] **(3) A school district and the members of a school district board are not liable in a criminal action or for civil damages as a result of [a student's] the use of medication[, as described in ORS 339.866,] if:**

(a) Any person in good faith administers autoinjectable epinephrine to a student **or other individual** with a severe allergy who is unable to self-administer the medication[;], **regardless of whether the student or individual has a prescription for epinephrine; and**

(b) The person administered the autoinjectable epinephrine **on school premises, including** at a school, on school property under the jurisdiction of the district or at an activity under the jurisdiction of the school district. [*; and*]

[*(c)*] *The autoinjectable epinephrine is available for the student pursuant to written permission and instructions of the student's parent, guardian or Oregon licensed health care professional.*

[*(3)*] **(4) The civil and criminal immunities imposed by this section do not apply to an act or omission amounting to gross negligence or willful and wanton misconduct.**

SECTION 10. This 2013 Act being necessary for the immediate preservation of the public peace, health and safety, an emergency is declared to exist, and this 2013 Act takes effect July 1, 2013.

Passed by Senate March 26, 2013

Repassed by Senate June 12, 2013

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Robert Taylor, Secretary of Senate

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Peter Courtney, President of Senate

Passed by House June 10, 2013

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Tina Kotek, Speaker of House

Received by Governor:

.....M,....., 2013

Approved:

.....M,....., 2013

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John Kitzhaber, Governor

Filed in Office of Secretary of State:

.....M,....., 2013

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Kate Brown, Secretary of State