

18A:40-12.5

LEGISLATIVE HISTORY CHECKLIST
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(School nurses--administer epinephrine)

NJSA: 18A:40-12.5 to 18A:40-12.6

LAWS OF: 1997 **CHAPTER:** 368

BILL NO: S373

SPONSOR(S): MacInnes

DATE INTRODUCED: Pre-filed

COMMITTEE: **ASSEMBLY:** Health
SENATE: Education

AMENDED DURING PASSAGE: Yes Amendments during passage denoted by
Second reprint enacted superscript numbers

DATE OF PASSAGE: **ASSEMBLY:** December 4, 1997 Re-enacted 1-12-98
SENATE: May 16, 1996 Re-enacted 1-12-98

DATE OF APPROVAL: January 19, 1998

FOLLOWING STATEMENTS ARE ATTACHED IF AVAILABLE:

SPONSOR STATEMENT: Yes

COMMITTEE STATEMENT: **ASSEMBLY:** Yes
SENATE: Yes

FISCAL NOTE: No

VETO MESSAGE: Yes

MESSAGE ON SIGNING: No

FOLLOWING WERE PRINTED:

REPORTS: No

HEARINGS: No

KBP:pp

§§1,2
C. 18A:40-12.5
&
18A:40-12.6

P.L. 1997, CHAPTER 368, *approved January 19, 1998*
Senate, No. 373 (*Second Reprint*)

1 AN ACT concerning the administration of medication for certain
2 school pupils and supplementing chapter 40 of Title 18A of the
3 New Jersey Statutes.

4
5 **BE IT ENACTED** by the Senate and General Assembly of the State
6 of New Jersey:

7
8 1. Each board of education ²or chief school administrator of a
9 nonpublic school² shall develop a policy for the ¹emergency¹
10 administration of ¹[medication] epinephrine via epi-pen¹ to a pupil for
11 ¹[asthma or other potentially life-threatening illnesses] anaphylaxis¹
12 provided that:

13 a. the parents or guardians of the pupil provide to the board of
14 education ²or chief school administrator of a nonpublic school ²
15 written authorization for the administration of the ¹[medication] epi-
16 pen¹;

17 b. the parents or guardians of the pupil provide to the board of
18 education ²or chief school administrator of a nonpublic school² written
19 ¹[certification] orders¹ from the physician ¹[of the pupil] or advanced
20 practice nurse¹ that the pupil ¹[has asthma or another potentially
21 life-threatening illness] requires the administration of epinephrine for
22 anaphylaxis¹ and does not have the capability for self-administration
23 of the medication;

24 c. the board ²or chief school administrator of a nonpublic school²
25 informs the parents or guardians of the pupil in writing that if the
26 procedures specified in this section are followed, the district and its
27 employees or agents ²or the nonpublic school and its employees or
28 agents² shall have no liability as a result of any injury arising from the
29 administration of ¹[medication] the epi-pen¹ to the pupil;

30 d. the parents or guardians of the pupil sign a statement

EXPLANATION - Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and intended to be omitted in the law.

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

¹ Senate SED committee amendments adopted February 15, 1996.

² Senate amendments adopted in accordance with Governor's recommendations January 12, 1998.

1 acknowledging their understanding that if the procedures specified in
2 this section are followed, the district ²or the nonpublic school² shall
3 have no liability as a result of any injury arising from the
4 administration of ¹[medication] the epi-pen¹ to the pupil and that the
5 parents or guardians shall indemnify and hold harmless the district and
6 its employees or agents ²or the nonpublic school and its employees or
7 agents² against any claims arising out of the administration of
8 ¹[medication] the epi-pen¹ to the pupil; and

9 e. the permission is effective for the school year for which it is
10 granted and is renewed for each subsequent school year upon
11 fulfillment of the requirements in subsections a. through d. of this
12 section.

13
14 2. The policy for the administration of medication to a pupil shall
15 provide that the school nurse shall have the primary responsibility for
16 the administration of the ¹[medication] epi-pen¹. ¹[A board of
17 education may designate, in consultation with the school nurse,] The
18 school nurse may designate, in consultation with the board of
19 education,¹ ²or chief school administrator of a nonpublic school²
20 another employee of the school district ²or nonpublic school² to
21 administer ¹[medication to a pupil for asthma or other potentially
22 life-threatening illnesses] epinephrine via epi-pen to a pupil for
23 anaphylaxis¹ when the nurse is not physically present at the scene,
24 provided that:

25 a. the designated person has been properly trained in the
26 administration of ¹[medication] the epi-pen¹ by the school nurse
27 using standardized training protocols established by the Department
28 of Education in consultation with the Department of Health¹;

29 b. the parents or guardians of the pupil consent in writing to the
30 administration of ¹[medication] the epi-pen¹ by the designated
31 individual.

32 c. the board ²or chief school administrator of a nonpublic school²
33 informs the parents or guardians of the pupil in writing that if the
34 procedures specified in this section are followed, the district and its
35 employees or agents ²or the nonpublic school and its employees and
36 agents² shall have no liability as a result of any injury arising from the
37 administration of ¹[medication] the epi-pen¹ to the pupil;

38 d. the parents or guardians of the pupil sign a statement
39 acknowledging their understanding that if the procedures specified in
40 this section are followed, the district ²or nonpublic school² shall have
41 no liability as a result of any injury arising from the administration of
42 ¹[medication] the epi-pen¹ to the pupil and that the parents or
43 guardians shall indemnify and hold harmless the district and its
44 employees or agents against any claims arising out of the
45 administration of ¹[medication] the epi-pen¹ to the pupil; and

46 e. the permission is effective for the school year for which it is

1 granted and is renewed for each subsequent school year upon
2 fulfillment of the requirements in subsections a. through d. of this
3 section.

4
5 ¹[3. a. In accordance with the "Administrative Procedure Act,"
6 P.L.1968, c.410 (C.52:14B-1 et seq.) the State Board of Education
7 shall promulgate such rules and regulations as it deems necessary no
8 later than six months after the effective date of this act.

9 b. A board of education shall not be prohibited from permitting the
10 administration of medication pursuant to sections 1 and 2 of this act
11 prior to the promulgation of rules and regulations by the State Board
12 of Education.]¹

13

14 ¹[4.] 3.¹ This act shall take effect immediately.

15

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17

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19 _____
20 Permits administration of epinephrine via epi-pen by school nurse or
other trained school employee.

1 the administration of the medication. A board of education may
2 designate, in consultation with the school nurse, another employee of
3 the school district to administer medication to a pupil for asthma or
4 other potentially life-threatening illnesses when the nurse is not
5 physically present at the scene, provided that:

6 a. the designated person has been properly trained in the
7 administration of medication by the school nurse;

8 b. the parents or guardians of the pupil consent in writing to the
9 administration of medication by the designated individual.

10 c. the board informs the parents or guardians of the pupil in writing
11 that if the procedures specified in this section are followed, the district
12 and its employees or agents shall have no liability as a result of any
13 injury arising from the administration of medication to the pupil;

14 d. the parents or guardians of the pupil sign a statement
15 acknowledging their understanding that if the procedures specified in
16 this section are followed, the district shall have no liability as a result
17 of any injury arising from the administration of medication to the pupil
18 and that the parents or guardians shall indemnify and hold harmless the
19 district and its employees or agents against any claims arising out of
20 the administration of medication to the pupil; and

21 e. the permission is effective for the school year for which it is
22 granted and is renewed for each subsequent school year upon
23 fulfillment of the requirements in subsections a. through d. of this
24 section.

25

26 3. a. In accordance with the "Administrative Procedure Act,"
27 P.L.1968, c.410 (C.52:14B-1 et seq.) the State Board of Education
28 shall promulgate such rules and regulations as it deems necessary no
29 later than six months after the effective date of this act.

30 b. A board of education shall not be prohibited from permitting the
31 administration of medication pursuant to sections 1 and 2 of this act
32 prior to the promulgation of rules and regulations by the State Board
33 of Education.

34

35 4. This act shall take effect immediately.

36

37

38

STATEMENT

39

40 This bill provides that a board of education shall develop a policy
41 for the administration of medication to a pupil for asthma or other
42 potentially life-threatening illnesses under certain conditions. The
43 conditions include provisions that the parents or guardians file their
44 written authorization and submit written certification from the pupil's
45 physician confirming the illness and the inability of the pupil for
46 self-administration; the board informs the parents or guardians that if

1 the specified procedures are followed, it shall have no liability arising
2 from the provision of the medication; and the parents or guardians sign
3 a statement that the district shall have no liability as a result.

4 The bill also provides that the school nurse should have primary
5 responsibility for the administration of the medication to a pupil for
6 asthma or other potentially life-threatening illnesses; however, another
7 employee may be designated if that person has been properly trained
8 by the nurse and if the parents consent in writing to the administration
9 of the medication by that person. Permission for the administration of
10 medication would be effective for the school year for which it was
11 granted and must be renewed for each subsequent school year.

12 The State Board of Education is required to promulgate rules and
13 regulations six months after the effective date of the act; however, a
14 board of education is not prohibited from permitting the administration
15 of medication prior to the promulgation of the rules and regulations.

16

17

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20 Permits administration of medication to a school pupil by the school
21 nurse or other trained school employee.

[Passed Both Houses]

[Second Reprint]
SENATE, No. 373

STATE OF NEW JERSEY

PRE-FILED FOR INTRODUCTION IN THE 1996 SESSION

By Senator MacINNES

1 AN ACT concerning the administration of medication for certain
2 school pupils and supplementing chapter 40 of Title 18A of the
3 New Jersey Statutes.

4
5 **BE IT ENACTED** by the Senate and General Assembly of the State
6 of New Jersey:

7
8 1. Each board of education ²or chief school administrator of a
9 nonpublic school² shall develop a policy for the ¹emergency¹
10 administration of ¹[medication] epinephrine via epi-pen¹ to a pupil for
11 ¹[asthma or other potentially life-threatening illnesses] anaphylaxis¹
12 provided that:

13 a. the parents or guardians of the pupil provide to the board of
14 education ²or chief school administrator of a nonpublic school²
15 written authorization for the administration of the ¹[medication] epi-
16 pen¹;

17 b. the parents or guardians of the pupil provide to the board of
18 education ²or chief school administrator of a nonpublic school²
19 written ¹[certification] orders¹ from the physician ¹[of the pupil] or
20 advanced practice nurse¹ that the pupil ¹[has asthma or another
21 potentially life-threatening illness] requires the administration of
22 epinephrine for anaphylaxis¹ and does not have the capability for
23 self-administration of the medication;

24 c. the board ²or chief school administrator of a nonpublic school²
25 informs the parents or guardians of the pupil in writing that if the
26 procedures specified in this section are followed, the district and its
27 employees or agents ²or the nonpublic school and its employees or

EXPLANATION - Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and intended to be omitted in the law.

Matter underlined **thus** is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

¹ Senate SED committee amendments adopted February 15, 1996.

² Senate amendments adopted in accordance with Governor's recommendations January 12, 1998.

- 1 agents² shall have no liability as a result of any injury arising from the
2 administration of ¹~~【medication】~~ the epi-pen¹ to the pupil;
- 3 d. the parents or guardians of the pupil sign a statement
4 acknowledging their understanding that if the procedures specified in
5 this section are followed, the district ²or the nonpublic school² shall
6 have no liability as a result of any injury arising from the
7 administration of ¹~~【medication】~~ the epi-pen¹ to the pupil and that the
8 parents or guardians shall indemnify and hold harmless the district and
9 its employees or agents ²or the nonpublic school and its employees or
10 agents² against any claims arising out of the administration of
11 ¹~~【medication】~~ the epi-pen¹ to the pupil; and
- 12 e. the permission is effective for the school year for which it is
13 granted and is renewed for each subsequent school year upon
14 fulfillment of the requirements in subsections a. through d. of this
15 section.
- 16
- 17 2. The policy for the administration of medication to a pupil shall
18 provide that the school nurse shall have the primary responsibility for
19 the administration of the ¹~~【medication】~~ epi-pen¹. ¹~~【A board of~~
20 ~~education may designate, in consultation with the school nurse,】~~ The
21 school nurse may designate, in consultation with the board of
22 education,¹ ²or chief school administrator of a nonpublic school²
23 another employee of the school district ²or nonpublic school² to
24 administer ¹~~【medication to a pupil for asthma or other potentially~~
25 ~~life-threatening illnesses】~~ epinephrine via epi-pen to a pupil for
26 anaphylaxis¹ when the nurse is not physically present at the scene,
27 provided that:
- 28 a. the designated person has been properly trained in the
29 administration of ¹~~【medication】~~ the epi-pen¹ by the school nurse
30 ¹using standardized training protocols established by the Department
31 of Education in consultation with the Department of Health¹;
- 32 b. the parents or guardians of the pupil consent in writing to the
33 administration of ¹~~【medication】~~ the epi-pen¹ by the designated
34 individual.
- 35 c. the board ²or chief school administrator of a nonpublic school²
36 informs the parents or guardians of the pupil in writing that if the
37 procedures specified in this section are followed, the district and its
38 employees or agents ²or the nonpublic school and its employees and
39 agents² shall have no liability as a result of any injury arising from the
40 administration of ¹~~【medication】~~ the epi-pen¹ to the pupil;
- 41 d. the parents or guardians of the pupil sign a statement
42 acknowledging their understanding that if the procedures specified in
43 this section are followed, the district ²or nonpublic school² shall have
44 no liability as a result of any injury arising from the administration of
45 ¹~~【medication】~~ the epi-pen¹ to the pupil and that the parents or

1 guardians shall indemnify and hold harmless the district and its
2 employees or agents against any claims arising out of the
3 administration of ¹~~medication~~ the epi-pen¹ to the pupil; and

4 e. the permission is effective for the school year for which it is
5 granted and is renewed for each subsequent school year upon
6 fulfillment of the requirements in subsections a. through d. of this
7 section.

8
9 ¹~~3.~~ a. In accordance with the "Administrative Procedure Act,"
10 P.L.1968, c.410 (C.52:14B-1 et seq.) the State Board of Education
11 shall promulgate such rules and regulations as it deems necessary no
12 later than six months after the effective date of this act.

13 b. A board of education shall not be prohibited from permitting the
14 administration of medication pursuant to sections 1 and 2 of this act
15 prior to the promulgation of rules and regulations by the State Board
16 of Education.]¹

17
18 ¹~~4.] 3.~~¹ This act shall take effect immediately.

19
20
21 _____
22
23 Permits administration of epinephrine via epi-pen by school nurse or
24 other trained school employee.

ASSEMBLY HEALTH COMMITTEE

STATEMENT TO

[First Reprint]

SENATE, No. 373

STATE OF NEW JERSEY

DATED: NOVEMBER 7, 1996

The Assembly Health Committee reports favorably Senate Bill No. 373 (1R).

This bill requires a board of education to develop a policy for the emergency administration of epinephrine via epi-pen to a pupil for anaphylaxis under certain conditions. The conditions include provisions that the parents or guardians file their written authorization and submit written orders from the pupil's physician or advanced practice nurse that the pupil requires the administration of epinephrine for anaphylaxis and does not have the capability for self-administration; the board informs the parents or guardians that if the specified procedures are followed, it shall have no liability arising from the administration of the epi-pen; and the parents or guardians sign a statement that the district shall have no liability as a result.

The bill provides that the school nurse shall have primary responsibility for the administration of the epi-pen; however, the school nurse may designate another employee if that person has been properly trained by the nurse and if the parents consent in writing to the administration of the epi-pen by that person. Permission for the administration of the epi-pen would be effective for the school year for which it was granted and must be renewed for each subsequent school year.

SENATE EDUCATION COMMITTEE

STATEMENT TO

SENATE, No. 373

with committee amendments

STATE OF NEW JERSEY

DATED: FEBRUARY 15, 1996

The Senate Education Committee reports favorably Senate Bill No. 373 with committee amendments.

As amended, this bill requires a board of education to develop a policy for the emergency administration of epinephrine via epi-pen to a pupil for anaphylaxis under certain conditions. The conditions include provisions that the parents or guardians file their written authorization and submit written orders from the pupil's physician or advanced practice nurse that the pupil requires the administration of epinephrine for anaphylaxis and does not have the capability for self-administration; the board informs the parents or guardians that if the specified procedures are followed, it shall have no liability arising from the administration of the epi-pen; and the parents or guardians sign a statement that the district shall have no liability as a result.

The bill provides that the school nurse should have primary responsibility for the administration of the epi-pen; however, the school nurse may designate another employee if that person has been properly trained by the nurse and if the parents consent in writing to the administration of the epi-pen by that person. Permission for the administration of the epi-pen would be effective for the school year for which it was granted and must be renewed for each subsequent school year.

Committee amendments were adopted which restrict the provisions of the bill to the emergency administration of epinephrine via epi-pen, provide that the school nurse has the primary responsibility for designating another employee to administer the medication, and eliminate the requirement for the Department of Education to promulgate rules and regulations.

This bill was pre-filed for introduction in the 1996 session pending technical review. As reported, the bill includes the changes required by technical review, which has been performed.

January 12, 1998

STATE OF NEW JERSEY
EXECUTIVE DEPARTMENT

SENATE BILL NO. 373
(First Reprint)

To the Senate:

Pursuant to Article V, Section I, Paragraph 14 of the New Jersey Constitution, I am returning Senate Bill No. 373 (First Reprint) with my recommendations for reconsideration.

A. Summary of the Bill

This bill amends current law to permit the emergency administration of epinephrine to pupils via epi-pen under certain conditions and requires boards of education to develop policies on such emergency administration. The bill applies only to public schools.

Epinephrine is used to treat anaphylaxis which is a life-threatening allergic reaction. Almost any substance can trigger anaphylaxis, but the most common agents are foods, drugs and insect stings. Current law, which applies to both public and nonpublic schools, allows students to self-administer medication for asthma or other life-threatening illness, provided certain conditions are satisfied. Because not all students are capable of self-administration and because some parents have refused to allow their children to self-administer, this bill allows a school (through the school nurse or trained designee) to administer the medication.

B. Recommended Action

I recommend that this bill be amended to apply to nonpublic schools. Currently, the law on the self-administration of medication by students (N.J.S.A. 18A:40-12.3) applies to both public and nonpublic schools. Because this bill was drafted to remedy a gap in the existing law on the administration of medication by students, the bill should be amended to accord with that existing law.

STATE OF NEW JERSEY
EXECUTIVE DEPARTMENT

2

Therefore, I herewith return Senate Bill No. 373 (First Reprint) and recommend that it be amended as follows:

Page 1, Section 1, Line 8: After "education" insert "or chief school administrator of a nonpublic school"

Page 1, Section 1, Line 13: After "education" insert "or chief school administrator of a nonpublic school"

Page 1, Section 1, Line 16: After "education" insert "or chief school administrator of a nonpublic school"

Page 1, Section 1, Line 21: After "board" insert "or chief school administrator of a nonpublic school"

Page 1, Section 1, Line 23: After "agents" insert "or the nonpublic school and its employees or agents"

Page 1, Section 1, Line 28: After "district" insert "or the nonpublic school"

Page 1, Section 1, Line 31: After "agents" insert "or the nonpublic school and its employees or agents"

Page 2, Section 2, Line 13: After "education" insert "or chief school administrator of a nonpublic school"

Page 2, Section 2, Line 13: After "district" insert "or nonpublic school"

Page 2, Section 2, Line 24: After "board" insert "or chief school administrator of a nonpublic school"

Page 2, Section 2, Line 26: After "agents" insert "or the nonpublic school and its employees and agents"

Page 2, Section 2, Line 31: After "district" insert "or nonpublic school"

STATE OF NEW JERSEY
EXECUTIVE DEPARTMENT

3

Page 2, Section 2, Line 34:

After "agents" insert "or
the nonpublic school and
its employees or agents"

Respectfully,

/s/ Christine Todd Whitman

GOVERNOR

[seal]

Attest:

/s/ Michael P. Torpey

Chief Counsel to the Governor