



May 2, 2012

MEMORANDUM FOR: JPA Liaisons
JPA Contact People / Safety
Officers
Servicing Agents

SUBJECT: School District Liability Related To
Epi Pens

The OSS legal counsel has prepared the following information related to school district Epi Pen liability:

Education Code Section 49414 governs School District use of EpiPens and sets forth the maintenance and training standards required by CA law. The Statute is a little different than the AED Good Samaritan Statute which provides blanket immunities. Section 49414 provides Standards which if met, presumably negate a claim of negligence against a School District. The statute leaves it up to the District to determine whether to adopt a program. Attached is a set of training standards issued by the Department of Education for Districts using EpiPens I think they will be helpful to establishing a compliance program going forward.

In summary, 49414 provides as follows:

1. A school district or county office of education may provide emergency epinephrine auto-injectors to trained personnel, and trained personnel may utilize those epinephrine auto-injectors to provide emergency medical aid to persons suffering from an anaphylactic reaction.
2. Each public and private elementary and secondary school in the state may voluntarily determine whether or not to make

emergency epinephrine auto-injectors and trained personnel available at its school. In making this determination, a school shall evaluate the emergency medical response time to the school and determine whether initiating emergency medical services is an acceptable alternative to epinephrine auto-injectors and trained personnel.

3. Each public and private elementary and secondary school in the state may designate one or more school personnel on a voluntary basis to receive initial and annual refresher training regarding the storage and emergency use of an epinephrine auto-injector from the school nurse or other qualified person designated by the school district.

4. The Superintendent shall establish minimum standards of training for the administration of epinephrine auto-injectors that satisfy the requirements in 49414 subdivision (2).

As you can see, the statutory scheme leaves it up to individual school Districts and provides training standards to insulate the District from liability.

If you have any questions, please contact me.

Henry Brock