

**Effective 5/3/2023**

## **Part 4 School Health**

### **26B-4-401 Definitions.**

As used in this part:

- (1) "Agent" means a coach, teacher, employee, representative, or volunteer.
- (2)
  - (a) "Amateur sports organization" means, except as provided in Subsection (2)(b):
    - (i) a sports team;
    - (ii) a public or private school;
    - (iii) a public or private sports league;
    - (iv) a public or private sports camp; or
    - (v) any other public or private organization that organizes, manages, or sponsors a sporting event for its members, enrollees, or attendees.
  - (b) "Amateur sports organization" does not include a professional:
    - (i) team;
    - (ii) league; or
    - (iii) sporting event.
- (3) "Anaphylaxis" means a potentially life-threatening hypersensitivity to a substance.
  - (a) Symptoms of anaphylaxis may include shortness of breath, wheezing, difficulty breathing, difficulty talking or swallowing, hives, itching, swelling, shock, or asthma.
  - (b) Causes of anaphylaxis may include insect sting, food allergy, drug reaction, and exercise.
- (4) "Asthma action plan" means a written plan:
  - (a) developed with a school nurse, a student's parent or guardian, and the student's health care provider to help control the student's asthma; and
  - (b) signed by the student's:
    - (i) parent or guardian; and
    - (ii) health care provider.
- (5) "Asthma emergency" means an episode of respiratory distress that may include symptoms such as wheezing, shortness of breath, coughing, chest tightness, or breathing difficulty.
- (6) "Child" means an individual who is under the age of 18.
- (7) "Epinephrine auto-injector" means a portable, disposable drug delivery device that contains a measured, single dose of epinephrine that is used to treat a person suffering a potentially fatal anaphylactic reaction.
- (8) "Health care provider" means an individual who is licensed as:
  - (a) a physician under Title 58, Chapter 67, Utah Medical Practice Act;
  - (b) a physician under Title 58, Chapter 68, Utah Osteopathic Medical Practice Act;
  - (c) an advanced practice registered nurse under Section 58-31b-302; or
  - (d) a physician assistant under Title 58, Chapter 70a, Utah Physician Assistant Act.
- (9) "Pharmacist" means the same as that term is defined in Section 58-17b-102.
- (10) "Pharmacy intern" means the same as that term is defined in Section 58-17b-102.
- (11) "Physician" means the same as that term is defined in Section 58-67-102.
- (12) "Qualified adult" means a person who:
  - (a) is 18 years of age or older; and
  - (b)

- (i) for purposes of administering an epinephrine auto-injector, has successfully completed the training program established in Section 26B-4-407; and
  - (ii) for purposes of administering stock albuterol, has successfully completed the training program established in Section 26B-4-408.
- (13) "Qualified epinephrine auto-injector entity":
  - (a) means a facility or organization that employs, contracts with, or has a similar relationship with a qualified adult who is likely to have contact with another person who may experience anaphylaxis; and
  - (b) includes:
    - (i) recreation camps;
    - (ii) an education facility, school, or university;
    - (iii) a day care facility;
    - (iv) youth sports leagues;
    - (v) amusement parks;
    - (vi) food establishments;
    - (vii) places of employment; and
    - (viii) recreation areas.
- (14) "Qualified health care provider" means a health care provider who:
  - (a) is licensed under Title 58, Occupations and Professions; and
  - (b) may evaluate and manage a concussion within the health care provider's scope of practice.
- (15) "Qualified stock albuterol entity" means a public or private school that employs, contracts with, or has a similar relationship with a qualified adult who is likely to have contact with another person who may experience an asthma emergency.
- (16)
  - (a) "Sporting event" means any of the following athletic activities that is organized, managed, or sponsored by an organization:
    - (i) a game;
    - (ii) a practice;
    - (iii) a sports camp;
    - (iv) a physical education class;
    - (v) a competition; or
    - (vi) a tryout.
  - (b) "Sporting event" does not include:
    - (i) the issuance of a lift ticket or pass by a ski resort, the use of the ticket or pass, or a ski or snowboarding class or school at a ski resort, unless the skiing or snowboarding is part of a camp, team, or competition that is organized, managed, or sponsored by the ski resort;
    - (ii) as applied to a government entity, merely making available a field, facility, or other location owned, leased, or controlled by the government entity to an amateur sports organization or a child, regardless of whether the government entity charges a fee for the use; or
    - (iii) free play or recess taking place during school hours.
- (17) "Stock albuterol" means a prescription inhaled medication:
  - (a) used to treat asthma; and
  - (b) that may be delivered through a device, including:
    - (i) an inhaler; or
    - (ii) a nebulizer with a mouthpiece or mask.
- (18) "Traumatic head injury" means an injury to the head arising from blunt trauma, an acceleration force, or a deceleration force, with one of the following observed or self-reported conditions attributable to the injury:

- (a) transient confusion, disorientation, or impaired consciousness;
- (b) dysfunction of memory;
- (c) loss of consciousness; or
- (d) signs of other neurological or neuropsychological dysfunction, including:
  - (i) seizures;
  - (ii) irritability;
  - (iii) lethargy;
  - (iv) vomiting;
  - (v) headache;
  - (vi) dizziness; or
  - (vii) fatigue.

Renumbered and Amended by Chapter 307, 2023 General Session

**26B-4-402 Plan for school health services.**

The department shall establish a plan for school health services for pupils in elementary and secondary schools. The department shall cooperate with the State Board of Education and local health departments in developing such plan and shall coordinate activities between these agencies. The plan may provide for the delivery of health services by and through intermediate and local school districts and local health departments.

Renumbered and Amended by Chapter 307, 2023 General Session

**26B-4-403 Adoption and enforcement of concussion and head injury policy -- Notice of policy to parent or guardian.**

Each amateur sports organization shall:

- (1) adopt and enforce a concussion and head injury policy that:
  - (a) is consistent with the requirements of Section 26B-4-404; and
  - (b) describes the nature and risk of:
    - (i) a concussion or a traumatic head injury; and
    - (ii) continuing to participate in a sporting event after sustaining a concussion or a traumatic head injury;
- (2) ensure that each agent of the amateur sports organization is familiar with, and has a copy of, the concussion and head injury policy; and
- (3) before permitting a child to participate in a sporting event of the amateur sports organization:
  - (a) provide a written copy of the concussion and head injury policy to a parent or legal guardian of a child; and
  - (b) obtain the signature of a parent or legal guardian of the child, acknowledging that the parent or legal guardian has read, understands, and agrees to abide by, the concussion and head injury policy.

Renumbered and Amended by Chapter 307, 2023 General Session

**26B-4-404 Removal of child suspected of sustaining concussion or a traumatic head injury -- Medical clearance required before return to participation.**

- (1) An amateur sports organization, and each agent of the amateur sports organization, shall:

- (a) immediately remove a child from participating in a sporting event of the amateur sports organization if the child is suspected of sustaining a concussion or a traumatic head injury; and
  - (b) prohibit the child described in Subsection (1)(a) from participating in a sporting event of the amateur sports organization until the child:
    - (i) is evaluated by a qualified health care provider who is trained in the evaluation and management of a concussion; and
    - (ii) provides the amateur sports organization with a written statement from the qualified health care provider described in Subsection (1)(b)(i) stating that:
      - (A) the qualified health care provider has, within three years before the day on which the written statement is made, successfully completed a continuing education course in the evaluation and management of a concussion; and
      - (B) the child is cleared to resume participation in the sporting event of the amateur sports organization.
- (2) This section does not create a new cause of action.

Renumbered and Amended by Chapter 307, 2023 General Session

**26B-4-405 School nurses evaluating student injuries.**

- (1) A school nurse may assess a child who is suspected of sustaining a concussion or a traumatic head injury during school hours on school property regardless of whether the nurse has received specialized training in the evaluation and management of a concussion.
- (2) A school nurse who does not meet the requirements of Subsections 26B-4-404(1)(b)(i) and (1)(b)(ii)(A), but who assesses a child who is suspected of sustaining a concussion or traumatic head injury under Subsection (1):
  - (a) shall refer the child to a qualified health care provider who is trained in the evaluation and management of a concussion; and
  - (b) may not provide a written statement permitting the child to resume participation in free play or physical education class under Subsection 26B-4-404(1)(b)(ii).
- (3) A school nurse shall undergo training in the evaluation and management of a concussion, as funding allows.

Renumbered and Amended by Chapter 307, 2023 General Session

**26B-4-406 Voluntary participation.**

- (1) Sections 26B-4-406 through 26B-4-411 do not create a duty or standard of care for:
  - (a) a person to be trained in the use and storage of epinephrine auto-injectors or stock albuterol; or
  - (b) except as provided in Subsection (5), a qualified epinephrine auto-injector entity to store epinephrine auto-injectors or a qualified stock albuterol entity to store stock albuterol on its premises.
- (2) Except as provided in Subsections (3) and (5), a decision by a person to successfully complete a training program under Section 26B-4-407 or 26B-4-408 and to make emergency epinephrine auto-injectors or stock albuterol available under the provisions of Sections 26B-4-406 through 26B-4-411 is voluntary.
- (3) A school, school board, or school official may not prohibit or dissuade a teacher or other school employee at a primary or secondary school in the state, either public or private, from:
  - (a) completing a training program under Section 26B-4-407 or 26B-4-408;

- (b) possessing or storing an epinephrine auto-injector or stock albuterol on school property if:
  - (i) the teacher or school employee is a qualified adult; and
  - (ii) the possession and storage is in accordance with the training received under Section 26B-4-407 or 26B-4-408; or
- (c) administering an epinephrine auto-injector or stock albuterol to any person, if:
  - (i) the teacher or school employee is a qualified adult; and
  - (ii) the administration is in accordance with the training received under Section 26B-4-407 or 26B-4-408.
- (4) A school, school board, or school official may encourage a teacher or other school employee to volunteer to become a qualified adult.
- (5)
  - (a) Each primary or secondary school in the state, both public and private, shall make an emergency epinephrine auto-injector available to any teacher or other school employee who:
    - (i) is employed at the school; and
    - (ii) is a qualified adult.
  - (b) This section does not require a school described in Subsection (5)(a) to keep more than one emergency epinephrine auto-injector on the school premises, so long as it may be quickly accessed by a teacher or other school employee, who is a qualified adult, in the event of an emergency.
- (6)
  - (a) Each primary or secondary school in the state, both public and private, may make stock albuterol available to any school employee who:
    - (i) is employed at the school; and
    - (ii) is a qualified adult.
  - (b) A qualified adult may administer stock albuterol to a student who:
    - (i) has a diagnosis of asthma by a health care provider;
    - (ii) has a current asthma action plan on file with the school; and
    - (iii) is showing symptoms of an asthma emergency as described in the student's asthma action plan.
  - (c) This Subsection (6) may not be interpreted to relieve a student's parent or guardian of providing a student's medication or create an expectation that a school will have stock albuterol available.
- (7) No school, school board, or school official shall retaliate or otherwise take adverse action against a teacher or other school employee for:
  - (a) volunteering under Subsection (2);
  - (b) engaging in conduct described in Subsection (3); or
  - (c) failing or refusing to become a qualified adult.

Renumbered and Amended by Chapter 307, 2023 General Session

**26B-4-407 Training in use and storage of epinephrine auto-injector.**

- (1)
  - (a) Each primary and secondary school in the state, both public and private, shall make initial and annual refresher training, regarding the storage and emergency use of an epinephrine auto-injector, available to any teacher or other school employee who volunteers to become a qualified adult.
  - (b) The training described in Subsection (1)(a) may be provided by the school nurse, or other person qualified to provide such training, designated by the school district physician, the

medical director of the local health department, or the local emergency medical services director.

- (2) A person who provides training under Subsection (1) or (6) shall include in the training:
  - (a) techniques for recognizing symptoms of anaphylaxis;
  - (b) standards and procedures for the storage and emergency use of epinephrine auto-injectors;
  - (c) emergency follow-up procedures, including calling the emergency 911 number and contacting, if possible, the student's parent and physician; and
  - (d) written materials covering the information required under this Subsection (2).
- (3) A qualified adult shall retain for reference the written materials prepared in accordance with Subsection (2)(d).
- (4) A public school shall permit a student to possess an epinephrine auto-injector or possess and self-administer an epinephrine auto-injector if:
  - (a) the student's parent or guardian signs a statement:
    - (i) authorizing the student to possess or possess and self-administer an epinephrine auto-injector; and
    - (ii) acknowledging that the student is responsible for, and capable of, possessing or possessing and self-administering an epinephrine auto-injector; and
  - (b) the student's health care provider provides a written statement that states that:
    - (i) it is medically appropriate for the student to possess or possess and self-administer an epinephrine auto-injector; and
    - (ii) the student should be in possession of the epinephrine auto-injector at all times.
- (5) The department, in cooperation with the state superintendent of public instruction, shall design forms to be used by public and private schools for the parental and health care providers statements described in Subsection (4).
- (6)
  - (a) The department:
    - (i) shall approve educational programs conducted by other persons, to train:
      - (A) people under Subsection (6)(b) of this section, regarding the proper use and storage of emergency epinephrine auto-injectors; and
      - (B) a qualified epinephrine auto-injector entity regarding the proper storage and emergency use of epinephrine auto-injectors; and
    - (ii) may, as funding is available, conduct educational programs to train people regarding the use of and storage of emergency epinephrine auto-injectors.
  - (b) A person who volunteers to receive training as a qualified adult to administer an epinephrine auto-injector under the provisions of this Subsection (6) shall demonstrate a need for the training to the department, which may be based upon occupational, volunteer, or family circumstances, and shall include:
    - (i) camp counselors;
    - (ii) scout leaders;
    - (iii) forest rangers;
    - (iv) tour guides; and
    - (v) other persons who have or reasonably expect to have contact with at least one other person as a result of the person's occupational or volunteer status.

Renumbered and Amended by Chapter 307, 2023 General Session

**26B-4-408 Training in use and storage of stock albuterol.**

(1)

- (a) Each primary and secondary school in the state, both public and private, shall make initial and annual refresher training regarding the storage and emergency use of stock albuterol available to a teacher or school employee who volunteers to become a qualified adult.
- (b) The training described in Subsection (1)(a) shall be provided by the department.
- (2) A person who provides training under Subsection (1) or (6) shall include in the training:
  - (a) techniques for recognizing symptoms of an asthma emergency;
  - (b) standards and procedures for the storage and emergency use of stock albuterol;
  - (c) emergency follow-up procedures, and contacting, if possible, the student's parent; and
  - (d) written materials covering the information required under this Subsection (2).
- (3) A qualified adult shall retain for reference the written materials prepared in accordance with Subsection (2)(d).
- (4)
  - (a) A public or private school shall permit a student to possess and self-administer asthma medication if:
    - (i) the student's parent or guardian signs a statement:
      - (A) authorizing the student to self-administer asthma medication; and
      - (B) acknowledging that the student is responsible for, and capable of, self-administering the asthma medication; and
    - (ii) the student's health care provider provides a written statement that states:
      - (A) it is medically appropriate for the student to self-administer asthma medication and be in possession of asthma medication at all times; and
      - (B) the name of the asthma medication prescribed or authorized for the student's use.
  - (b) Section 53G-8-205 does not apply to the possession and self-administration of asthma medication in accordance with this section.
- (5) The department, in cooperation with the state superintendent of public instruction, shall design forms to be used by public and private schools for the parental and health care provider statements described in Subsection (4).
- (6) The department:
  - (a) shall approve educational programs conducted by other persons to train:
    - (i) people under Subsection (6)(b), regarding the proper use and storage of stock albuterol; and
    - (ii) a qualified stock albuterol entity regarding the proper storage and emergency use of stock albuterol; and
  - (b) may conduct educational programs to train people regarding the use of and storage of stock albuterol.

Renumbered and Amended by Chapter 307, 2023 General Session

**26B-4-409 Authority to obtain and use an epinephrine auto-injector or stock albuterol.**

- (1) A qualified adult who is a teacher or other school employee at a public or private primary or secondary school in the state, or a school nurse, may obtain from the school district physician, the medical director of the local health department, or the local emergency medical services director a prescription for:
  - (a) epinephrine auto-injectors for use in accordance with this part; or
  - (b) stock albuterol for use in accordance with this part.
- (2)
  - (a) A qualified adult may obtain an epinephrine auto-injector for use in accordance with this part that is dispensed by:
    - (i) a pharmacist as provided under Section 58-17b-1004; or

- (ii) a pharmacy intern as provided under Section 58-17b-1004.
- (b) A qualified adult may obtain stock albuterol for use in accordance with this part that is dispensed by:
  - (i) a pharmacist as provided under Section 58-17b-1004; or
  - (ii) a pharmacy intern as provided under Section 58-17b-1004.
- (3) A qualified adult:
  - (a) may immediately administer an epinephrine auto-injector to a person exhibiting potentially life-threatening symptoms of anaphylaxis when a physician is not immediately available; and
  - (b) shall initiate emergency medical services or other appropriate medical follow-up in accordance with the training materials retained under Section 26B-4-407 after administering an epinephrine auto-injector.
- (4) If a school nurse is not immediately available, a qualified adult:
  - (a) may immediately administer stock albuterol to an individual who:
    - (i) has a diagnosis of asthma by a health care provider;
    - (ii) has a current asthma action plan on file with the school; and
    - (iii) is showing symptoms of an asthma emergency as described in the student's asthma action plan; and
  - (b) shall initiate appropriate medical follow-up in accordance with the training materials retained under Section 26B-4-408 after administering stock albuterol.
- (5)
  - (a) A qualified entity that complies with Subsection (5)(b) or (c), may obtain a supply of epinephrine auto-injectors or stock albuterol, respectively, from a pharmacist under Section 58-17b-1004, or a pharmacy intern under Section 58-17b-1004 for:
    - (i) storing:
      - (A) the epinephrine auto-injectors on the qualified epinephrine auto-injector entity's premises; and
      - (B) stock albuterol on the qualified stock albuterol entity's premises; and
    - (ii) use by a qualified adult in accordance with Subsection (3) or (4).
  - (b) A qualified epinephrine auto-injector entity shall:
    - (i) designate an individual to complete an initial and annual refresher training program regarding the proper storage and emergency use of an epinephrine auto-injector available to a qualified adult; and
    - (ii) store epinephrine auto-injectors in accordance with the standards established by the department in Section 26B-4-411.
  - (c) A qualified stock albuterol entity shall:
    - (i) designate an individual to complete an initial and annual refresher training program regarding the proper storage and emergency use of stock albuterol available to a qualified adult; and
    - (ii) store stock albuterol in accordance with the standards established by the department in Section 26B-4-411.

Renumbered and Amended by Chapter 307, 2023 General Session

**26B-4-410 Immunity from liability.**

- (1) The following, if acting in good faith, are not liable in any civil or criminal action for any act taken or not taken under the authority of Sections 26B-4-406 through 26B-4-411 with respect to an anaphylactic reaction or asthma emergency:
  - (a) a qualified adult;



- (b) a physician, pharmacist, or any other person or entity authorized to prescribe or dispense prescription drugs;
  - (c) a person who conducts training described in Section 26B-4-407 or 26B-4-408;
  - (d) a qualified epinephrine auto-injector entity; and
  - (e) a qualified stock albuterol entity.
- (2) Section 53G-9-502 does not apply to the administration of an epinephrine auto-injector or stock albuterol in accordance with this part.
- (3) This section does not eliminate, limit, or reduce any other immunity from liability or defense against liability that may be available under state law.

Renumbered and Amended by Chapter 307, 2023 General Session

**26B-4-411 Administrative rulemaking authority.**

The department shall adopt rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to:

- (1) establish and approve training programs in accordance with Sections 26B-4-407 and 26B-4-408;
- (2) establish a procedure for determining who is eligible for training as a qualified adult under Subsection 26B-4-407(6)(b)(v); and
- (3) establish standards for storage of:
  - (a) emergency auto-injectors by a qualified epinephrine auto-injector entity under Section 26B-4-407; and
  - (b) stock albuterol by a qualified stock albuterol entity under Section 26B-4-408.

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