

CLIENT NEWS BRIEF

New Immunity for Physicians Prescribing Epinephrine Auto-Injectors Increases Likelihood of Local Educational Agencies Obtaining Prescriptions

Governor Jerry Brown recently signed Senate Bill (SB) 738 into law, which provides qualified immunity to physicians who issue a prescription for epinephrine auto-injectors (commonly known as “EpiPens”) to a local educational agency (LEA), such as a school district, county office of education, or charter school. The qualified immunity provided would prohibit a prescribing physician from being subject to professional review, being liable in a civil action, or being subject to criminal prosecution due to prescribing epinephrine auto-injectors. An exception exists if the physician’s issuance of the prescription for the epinephrine auto-injectors constitutes gross negligence or willful or malicious conduct.

Previously, physicians were not provided liability protections for prescribing epinephrine auto-injectors to LEAs, despite the passage of SB 1266 in September 2014. SB 1266 required LEAs to provide emergency epinephrine auto-injectors to school nurses or personnel who have volunteered and received the required training ([See Client News Brief No. 66, September 2014](#)).

The absence of qualified immunity made it difficult for some LEAs to obtain the required prescriptions for epinephrine auto-injectors as some physicians were unwilling to issue a prescription out of concern for the potential liability. The passage of SB 738 provides physicians with protections afforded to other persons and entities who comply with epinephrine auto-injector laws and is likely to minimize school districts’ difficulties in obtaining prescriptions for epinephrine auto-injectors.

If you have any questions regarding physician immunity for writing prescriptions for epinephrine auto-injectors or complying with SB 1266, please contact one of our [nine offices](#) located statewide. You can also visit our [website](#), follow us on [Facebook](#) or [Twitter](#), or download our [Client News Brief App](#).

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