



June 2002

TO: District Superintendents  
Superintendents of Public Schools  
Superintendents of State-Operated and State-Supported Schools  
Nonpublic School Administrators and Educators  
New York City Board of Education  
Principals of Public and Nonpublic Schools  
Directors of Pupil Personnel Services  
School Physicians  
Nurse Practitioners/School Nurse-Teachers/School Nurses

FROM: James A. Kadamus, Deputy Commissioner  
Office of Elementary, Middle, Secondary and Continuing Education  
Johanna Duncan-Poitier, Deputy Commissioner  
Office of Higher Education and Office of the Professions

SUBJECT: Use of Epinephrine Auto-Injector Devices in the School Setting

The prescriptive use of single dose epinephrine auto injector devices ("epi-pens") has become an accepted and extremely beneficial practice in protecting individuals subject to serious allergic reactions. The use of epi-pens in schools has also become a common method of protecting children against severe reactions that they may encounter during school hours.

The administration of epinephrine by epi-pen, prescribed by a licensed prescriber, to a student with a known severe allergy needing an anaphylactic treatment agent may be performed by a school staff member responding to an emergency situation. Such a response is permitted under the Medical Practice Act (Education Law §6527[4][a]) and the Nurse Practice Act (Education Law §6908[1][a][iv]) and is covered by the "Good Samaritan Law" (Public Health Law §3000-a).

Recently, questions have arisen regarding the authority of registered nurses, nurse-practitioners, physicians and physician's assistants, licensed by the State Education Department, to provide training to unlicensed individuals in administering epi-pens, prescribed by a licensed prescriber, to school children in the event of the onset of a serious allergic reaction when a nurse is not available. As this practice could be viewed as subjecting the licensee to potential professional misconduct charges, it is necessary to provide some clarity and guidance.

Subject to the conditions below, the New York State Education Department ("SED") shall not consider the mere action by a registered nurse, nurse-practitioner, physician or physician's assistant of training an unlicensed person to administer an epi-pen in an emergency to constitute an act of professional misconduct.

- The training provided must be premised upon the use of an epi-pen only in an emergency situation where a nurse or other licensed individual is not available.
- The licensee providing the training must possess adequate knowledge, preparation and licensure to adequately provide the training.
- The licensee providing the training must not do so in a negligent or grossly negligent manner.

Therefore, when a registered nurse, nurse-practitioner, physician or physician's assistant trains an unlicensed individual to administer an epi-pen, prescribed by a licensed prescriber, in emergency situations where an appropriately licensed person is not available, the mere act of providing such training under the conditions noted above is not considered by SED to constitute professional misconduct on the part of the licensed individual. SED will **not** view the provision of training *per se* to be grounds for charging the licensed individual with professional misconduct and does not anticipate initiating such charges solely on that basis.