



VIRGINIA BOARD OF EDUCATION

AGENDA ITEM

Agenda Item: M

Date: July 25, 2024

Title: First and Final Review of Amendments to Include Statutory Requirements for the Possession and Administration of Epinephrine in Regulated Child Day Programs

Presenter: Jenna Conway, Deputy Superintendent, Early Childhood Care and Education

Purpose of Presentation

Action required by state or federal law or regulation (i.e., a change in law requires a change in program requirements; this is part of a regulatory action).

Executive Summary

During the 2023 Session, the Virginia General Assembly passed House Bill [2140](#) (Delaney) and Senate Bill [1146](#) (Boysko) to require the Virginia Board of Education (“Board”) to amend regulations for child day centers to implement policies for the possession and administration of epinephrine and requires individuals authorized to administer epinephrine to receive training in the administration of epinephrine. The law also requires family day home providers or caregiver employed by the family day home provider to be trained in the administration of epinephrine and to notify parents whether the provider stores an appropriate weight-based dosage of epinephrine in the residence or home in which the family day home operates.

The Code of Virginia § [22.1-289.059](#) previously required each early childhood care and education entity or all child day programs that care for children ages birth to five, to implement policies for the possession and administration of epinephrine in every such entity to be administered by any nurse at the entity, employee at the entity, or employee of a local health department who is authorized by a prescriber and trained in the administration of epinephrine to any child believed to be having an anaphylactic reaction. Such policies shall require that at least one school nurse, employee at the entity, or employee of a local health department who is authorized by a prescriber and trained in the administration of epinephrine has the means to

access at all times during regular facility hours any such appropriate weight-based dosage of epinephrine that is stored in a locked or otherwise generally inaccessible container or area.

House Bill [2140](#) and Senate Bill [1146](#) amended § [22.1-289.059](#) of the Code of Virginia to limit the scope of the requirement to maintain epinephrine at the child day center to apply only to licensed child day centers and child day centers who participate in the Child Care Subsidy Program. The law also requires each family day home provider or at least one other caregiver employed by such provider in the family day home to be trained in the administration of epinephrine and to notify the parents of each child who receives care in such family day home whether the provider stores an appropriate weight-based dosage of epinephrine in the residence or home in which the family day home operates.

Action Requested

Final review: Action requested at this meeting.

Superintendent's Recommendation

The Superintendent of Public Instruction recommends that the Board waive first review and approve amendments as proposed in this item.

Rationale for Action

[Chapter 122](#) and [Chapter 123](#) of the 2023 Acts of Assembly directs the Virginia Board of Education to amend regulations to enact the provisions of the amended § [22.1-289.059](#). An exempt action is necessary for all regulated child day programs to comply with the statutory requirement that became effective on July 1, 2023. This action is necessary for the protection of children and will impact licensed child day centers, licensed family day homes, home-based child day programs that participate in the Child Care Program, center-based child day programs that participate in the Child Care Program, and voluntarily registered family day homes.

Previous Review or Action

This action was brought before the Board in July 2023. The Department received feedback from the Office of the Attorney General that prompted amendments to the original language. The Department is requesting that the Board consider the changes made to the action to incorporate more instruction for regulated child day programs in the development of policies and procedures and the completion of training.

Background Information and Statutory Authority

The Board's statutory authority to adopt, develop, or amend regulations for child day programs is found in § [22.1-289.046](#)(A) of the *Code of Virginia* and provides, in part, the following:

A. The Board shall adopt regulations for the activities, services and facilities to be employed by persons and agencies required to be licensed under this chapter, which shall be designed to ensure that such activities, services, and facilities are conducive to the welfare of the children under the control of such persons or agencies.

The 2023 General Assembly approved House Bill [2140](#) and Senate Bill [1146](#), which amends § [22.1-289.059](#) of the Code. House Bill [2140](#) and Senate Bill [1146](#) were identical bills that support the implementation of policies that require stock epinephrine to be maintained at certain regulated child day centers and child day centers that participate in the Child Care Program. Similar legislation was enacted for all public schools as outlined in § [22.1-274.2](#). In addition, § [22.1-289.059](#) includes safety provisions for children in care at family day homes and requires training and parent notification of the home's access to epinephrine in the home:

The Board shall amend its regulations to require each early childhood care and education entity to implement policies for the possession and administration of epinephrine in every such entity to be administered by any nurse at the entity, employee at the entity, or employee of a local health department who is authorized by a prescriber and trained in the administration of epinephrine to any child believed to be having an anaphylactic reaction. Such policies shall require that at least one school nurse, employee at the entity, or employee of a local health department who is authorized by a prescriber and trained in the administration of epinephrine has the means to access at all times during regular facility hours any such appropriate weight-based dosage of epinephrine that is stored in a locked or otherwise generally inaccessible container or area.

The proposed amendments to the *Standards for Licensed Child Day Centers* ([8VAC20-780](#)) in the action to repeal and replace the regulation incorporate this legislative requirement as provided in June 2023.

Stakeholder Engagement

The Department, in partnership with the Virginia Department of Health, will engage a broad set of stakeholders as it establishes specific guidelines, protocol and training requirements for child day programs impacted by this legislation.

Implementation and Communication

Upon approval by the Board, this action will be submitted as a fast-track regulatory action in accordance with the Administrative Process Act.

Stakeholders will be notified of the status of this regulatory action once the executive review process is completed. Notification will be communicated in a memo sent by email to providers and notifications and updates will be shared in the Department's *Readiness Connections* newsletter.

Impact on Fiscal and Human Resources

There is no impact on fiscal or human resources to amend these regulation amendments.