S T A T E O F N E W Y O R K

1771

2011-2012 Regular Sessions

I N A S S E M B L Y

January 11, 2011

Introduced by M. of A. ROSENTHAL -- read once and referred to the Committee on Health

AN ACT to amend the public health law, in relation to requiring epinephrine auto-injector devices at children's overnight, summer day and traveling summer camps

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Paragraph (a) of subdivision 1 of section 3000-c of the public health law, as amended by chapter 350 of the laws of 2001, is amended to read as follows:

(a) "Eligible person, firm, organization, or other entity" means, (i) an ambulance service or advanced life support first response service; a certified first responder, emergency medical technician, or advanced emergency medical technician, who is employed by or an enrolled member of any such service; OR (ii) [a children's overnight camp as defined in subdivision one of section thirteen hundred ninety-two of this chapter, a summer day camp as defined in subdivision two of section thirteen hundred ninety-two of this chapter, a traveling summer day camp as defined in subdivision three of section thirteen hundred ninety-two of this chapter or a person employed by such a camp; or (iii)] any other person, firm, organization or entity designated pursuant to regulations of the commissioner in consultation with other appropriate agencies; and all subject to regulations of the commissioner.

S 2. The public health law is amended by adding a new section 1392-b to read as follows:

S 1392-B. EPINEPHRINE AUTO-INJECTOR DEVICES REQUIRED. 1. DEFINITIONS. AS USED IN THIS SECTION, "EMERGENCY HEALTH CARE PROVIDER" MEANS (A) A PHYSICIAN WITH KNOWLEDGE AND EXPERIENCE IN THE DELIVERY OF EMERGENCY CARE; OR (B) A HOSPITAL LICENSED UNDER ARTICLE TWENTY-EIGHT OF THIS CHAPTER THAT PROVIDES EMERGENCY CARE.

EXPLANATION--Matter in ITALICS (underscored) is new; matter in brackets [ ] is old law to be omitted.

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2. COLLABORATIVE AGREEMENT. (A) EVERY PERSON, FIRM, LIMITED LIABILITY COMPANY, ASSOCIATION AND CORPORATION WHICH OPERATES A CHILDREN'S OVERNIGHT, SUMMER DAY AND TRAVELING SUMMER DAY CAMP, AS DEFINED IN THIS ARTICLE, SHALL MAINTAIN A COLLABORATIVE AGREEMENT WITH AN EMERGENCY HEALTH CARE PROVIDER AND SHALL HAVE ON THE PREMISES AN EPINEPHRINE AUTO-INJECTOR DEVICE.

(B) THE COLLABORATIVE AGREEMENT REQUIRED PURSUANT TO PARAGRAPH (A) OF THIS SUBDIVISION SHALL INCLUDE A WRITTEN AGREEMENT THAT INCORPORATES WRITTEN PRACTICE PROTOCOLS, AND POLICIES AND PROCEDURES THAT SHALL ENSURE COMPLIANCE WITH THE PROVISIONS OF THIS SECTION. THE PERSON, FIRM, LIMITED LIABILITY COMPANY, ORGANIZATION OR ENTITY OPERATING THE CHILDREN'S OVERNIGHT, SUMMER DAY AND TRAVELING SUMMER DAY CAMP SHALL FILE A COPY OF THE COLLABORATIVE AGREEMENT WITH THE DEPARTMENT AND WITH THE APPROPRIATE REGIONAL COUNCIL PRIOR THE USING ANY EPINEPHRINE AUTO-INJECTOR DEVICE.

3. POSSESSION AND USE OF EPINEPHRINE AUTO-INJECTOR DEVICES. POSSESSION AND USE OF EPINEPHRINE AUTO-INJECTOR DEVICES SHALL BE LIMITED AS FOLLOWS:

(A) NO PERSON SHALL USE AN EPINEPHRINE AUTO-INJECTOR DEVICE UNLESS SUCH PERSON SHALL HAVE SUCCESSFULLY COMPLETED A TRAINING COURSE IN THE USE OF EPINEPHRINE AUTO-INJECTOR DEVICES APPROVED BY THE COMMISSIONER PURSUANT TO THE RULES OF THE DEPARTMENT. THIS SECTION DOES NOT PROHIBIT THE USE OF AN EPINEPHRINE AUTO-INJECTOR DEVICE (I) BY A HEALTH CARE PRACTITIONER LICENSED OR CERTIFIED UNDER TITLE EIGHT OF THE EDUCATION LAW ACTING WITHIN THE SCOPE OF HIS OR HER PRACTICE, OR (II) BY A PERSON ACTING PURSUANT TO A LAWFUL PRESCRIPTION.

(B) EVERY PERSON, FIRM, ORGANIZATION AND ENTITY AUTHORIZED TO POSSESS AND USE EPINEPHRINE AUTO-INJECTOR DEVICES PURSUANT TO THIS SECTION SHALL USE, MAINTAIN AND DISPOSE OF SUCH DEVICES PURSUANT TO REGULATIONS OF THE DEPARTMENT.

(C) EVERY USE OF AN EPINEPHRINE AUTO-INJECTOR DEVICE PURSUANT TO THIS SECTION SHALL IMMEDIATELY BE REPORTED TO THE EMERGENCY HEALTH CARE PROVIDER.

4. APPLICATION OF OTHER LAWS. (A) USE OF AN EPINEPHRINE AUTO-INJECTOR DEVICE PURSUANT TO THIS SECTION SHALL BE CONSIDERED FIRST AID OR EMERGENCY TREATMENT FOR THE PURPOSE OF ANY STATUTE RELATING TO LIABILITY.

(B) PURCHASE, ACQUISITION, POSSESSION OR USE OF AN EPINEPHRINE AUTO-INJECTOR DEVICE PURSUANT TO THIS SECTION SHALL NOT CONSTITUTE THE UNLAWFUL PRACTICE OF A PROFESSION OR OTHER VIOLATION UNDER TITLE EIGHT OF THE EDUCATION LAW OR ARTICLE THIRTY-THREE OF THIS CHAPTER.

(C) ANY PERSON OTHERWISE AUTHORIZED TO SELL OR PROVIDE AN EPINEPHRINE AUTO-INJECTOR DEVICE MAY SELL OR PROVIDE IT TO A PERSON AUTHORIZED TO POSSESS IT PURSUANT TO THIS SECTION.

S 3. This act shall take effect on the one hundred eightieth day after it shall have become a law; provided that any rules and regulations necessary to implement the provisions of this act on its effective date are authorized and directed to be added, amended and/or repealed on or before such date.