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

7041

2013-2014 Regular Sessions

I N A S S E M B L Y

April 30, 2013

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 use of epinephrine auto-injector devices in schools and authorizing the use of glucagon for emergency injection kits

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

Section 1. Subdivision 2 of section 3000-a of the public health law, as amended by chapter 243 of the laws of 2010, is amended to read as follows:

2. (i) Any person who, or entity, partnership, corporation, firm or society that, purchases, operates, facilitates implementation or makes available resuscitation equipment that facilitates first aid, an automated external defibrillator [or], an epinephrine auto-injector device OR A GLUCAGON EMERGENCY INJECTION KIT as required by or pursuant to law or local law, or (ii) an emergency health care provider under a collaborative agreement pursuant to section three thousand-b of this article with respect to an automated external defibrillator, or (iii) the emergency health care provider with a collaborative agreement under section three thousand-c of this article with respect to use of an epinephrine auto-injector device, OR (IV) THE EMERGENCY HEALTH CARE PROVIDER WITH A COLLABORATIVE AGREEMENT UNDER SECTION THREE THOUSAND-E OF THIS ARTICLE WITH RESPECT TO USE OF A GLUCAGON EMERGENCY INJECTION KIT, shall not be liable for damages arising either from the use of that equipment by a person who voluntarily and without expectation of monetary compensation renders first aid or emergency treatment at the scene of an accident or medical emergency, or from the use of defectively manufactured equipment; provided that this subdivision shall not limit the person's or entity's, partnership's, corporation's, firm's, society's or the emergency health care provider's liability for his, her or its own negligence, gross negligence or intentional misconduct.

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

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S 2. 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; (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; OR (IV) A SCHOOL DISTRICT OR ANY PERSON EMPLOYED BY A SCHOOL DISTRICT WHO IS DESIGNATED AS SUCH; and all subject to regulations of the commissioner.

S 3. Subdivision 3 of section 3000-c of the public health law is amended by adding a new paragraph (d) to read as follows:

(D) EVERY SCHOOL DISTRICT THAT DESIGNATES ANY PERSON OR PERSONS AS AN ELIGIBLE PERSON SHALL IMMEDIATELY NOTIFY THE COMMISSIONER OF EDUCATION AND ENSURE THAT ALL SUCH PERSONS IMMEDIATELY SUCCESSFULLY COMPLETE THE TRAINING REQUIRED BY PARAGRAPH (A) OF THIS SUBDIVISION.

S 4. The public health law is amended by adding a new section 3000-e to read as follows:

S 3000-E. GLUCAGON EMERGENCY INJECTION KITS. 1. DEFINITIONS. AS USED IN THIS SECTION:

(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; (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; (III) ANY OTHER PERSON, FIRM, ORGANIZATION OR ENTITY DESIGNATED PURSUANT TO REGULATIONS OF THE COMMISSIONER IN CONSULTATION WITH OTHER APPROPRIATE AGENCIES; OR (IV) A SCHOOL DISTRICT OR ANY PERSON EMPLOYED BY A SCHOOL DISTRICT WHO IS DESIGNATED AS SUCH; AND ALL SUBJECT TO REGULATIONS OF THE COMMISSIONER.

(B) "EMERGENCY HEALTH CARE PROVIDER" MEANS (I) A PHYSICIAN WITH KNOWLEDGE AND EXPERIENCE IN THE DELIVERY OF EMERGENCY CARE; OR (II) A HOSPITAL LICENSED UNDER ARTICLE TWENTY-EIGHT OF THIS CHAPTER THAT PROVIDES EMERGENCY CARE.

2. COLLABORATIVE AGREEMENT. ANY ELIGIBLE PERSON, FIRM, ORGANIZATION OR OTHER ENTITY MAY PURCHASE, ACQUIRE, POSSESS AND USE GLUCAGON FOR EMERGENCY INJECTION KITS PURSUANT TO A COLLABORATIVE AGREEMENT WITH AN EMERGENCY HEALTH CARE PROVIDER. THE COLLABORATIVE AGREEMENT 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, ORGANIZATION OR ENTITY SHALL FILE A COPY OF THE COLLABORATIVE AGREEMENT WITH THE DEPARTMENT AND WITH APPRO-

PRIATE REGIONAL COUNCIL PRIOR TO USING ANY GLUCAGON FOR EMERGENCY INJECTION KITS.

3. POSSESSION AND USE OF GLUCAGON EMERGENCY INJECTION KITS. POSSESSION AND USE OF GLUCAGON EMERGENCY INJECTION KITS SHALL BE LIMITED AS FOLLOWS:

(A) NO PERSON SHALL USE A GLUCAGON EMERGENCY INJECTION KIT UNLESS SUCH PERSON SHALL HAVE SUCCESSFULLY COMPLETED A TRAINING COURSE IN THE USE OF GLUCAGON EMERGENCY INJECTION KITS APPROVED BY THE COMMISSIONER PURSUANT TO THE RULES OF THE DEPARTMENT. THIS SECTION SHALL NOT BE DEEMED TO PROHIBIT THE USE OF A GLUCAGON EMERGENCY INJECTION KIT (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 GLUCAGON EMERGENCY INJECTION KITS PURSUANT TO THIS SECTION SHALL USE, MAINTAIN AND DISPOSE OF SUCH KITS PURSUANT TO REGULATIONS OF THE DEPARTMENT.

(C) EVERY USE OF A GLUCAGON EMERGENCY INJECTION KIT PURSUANT TO THIS SECTION SHALL IMMEDIATELY BE REPORTED TO THE EMERGENCY HEALTH CARE PROVIDER.

(D) EVERY SCHOOL DISTRICT THAT DESIGNATES ANY PERSON OR PERSONS AS AN ELIGIBLE PERSON SHALL IMMEDIATELY NOTIFY THE COMMISSIONER OF EDUCATION AND ENSURE THAT ALL PERSONS IMMEDIATELY SUCCESSFULLY COMPLETE THE TRAINING REQUIRED BY PARAGRAPH (A) OF THIS SUBDIVISION.

4. APPLICATION OF OTHER LAWS. (A) USE OF A GLUCAGON EMERGENCY INJECTION KIT 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 A GLUCAGON EMERGENCY INJECTION KIT 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 A GLUCAGON FOR EMERGENCY INJECTION KIT MAY SELL OR PROVIDE IT TO A PERSON AUTHORIZED TO POSSESS IT PURSUANT TO THIS SECTION.

S 5. This act shall take effect immediately.