

7791

2013-2014 Regular Sessions

I N   A S S E M B L Y

June 4, 2013

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

AN ACT to amend the public health law, in relation to authorizing schools to possess and administer epinephrine auto-injectors in emergency situations

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

1     Section 1. Section 3000-c of the public health law, as added by chapter  
2     ter 578 of the laws of 1999, paragraph (a) of subdivision 1 as amended  
3     by chapter 350 of the laws of 2001, is amended to read as follows:  
4     S 3000-c. Epinephrine auto-injector devices. 1. Definitions. As used  
5     in this section:  
6     (a) "Eligible person, firm, organization, or other entity" means, (i)  
7     an ambulance service or advanced life support first response service; a  
8     certified first responder, emergency medical technician, or advanced  
9     emergency medical technician, who is employed by or an enrolled member  
10    of any such service; (ii) a children's overnight camp as defined in  
11    subdivision one of section thirteen hundred ninety-two of this chapter,  
12    a summer day camp as defined in subdivision two of section thirteen  
13    hundred ninety-two of this chapter, a traveling summer day camp as  
14    defined in subdivision three of section thirteen hundred ninety-two of  
15    this chapter or a person employed by such a camp; or (iii) SCHOOL  
16    DISTRICTS, BOARDS OF COOPERATIVE EDUCATIONAL SERVICES, COUNTY VOCATIONAL  
17    EDUCATION AND EXTENSION BOARDS, CHARTER SCHOOLS, OR A DULY HIRED NURSE  
18    OF ANY SUCH ENTITY; OR (IV) any other person, firm, organization or  
19    entity designated pursuant to regulations of the commissioner in consultation  
20    with other appropriate agencies; and all subject to regulations  
21    of the commissioner.  
22    (b) "Emergency health care provider" means (i) a physician with knowledge  
23    and experience in the delivery of emergency care; or (ii) a hospi-

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

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tal 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 epinephrine auto-injector devices 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 the appropriate regional council prior to 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, OR (III) A SCHOOL NURSE ACTING IN ACCORDANCE WITH PARAGRAPH (B) OF THIS SUBDIVISION.

(b) (I) A SCHOOL DISTRICT, BOARD OF COOPERATIVE EDUCATIONAL SERVICES, COUNTY VOCATIONAL EDUCATIONAL AND EXTENSION BOARD, CHARTER SCHOOL, OR SCHOOL NURSE MAY, WITH OR WITHOUT A COLLABORATIVE AGREEMENT, POSSESS AND MAINTAIN EPINEPHRINE AUTO-INJECTORS ON SCHOOL PROPERTY. THE COMMISSIONER, IN CONSULTATION WITH THE COMMISSIONER OF EDUCATION, SHALL DETERMINE THE QUANTITY AND TYPE OF AUTO-INJECTORS THAT MAY BE POSSESSED. SUCH AUTO-INJECTORS SHALL BE STORED AND MAINTAINED IN A MANNER PRESCRIBED BY THE COMMISSIONER.

(II) A SCHOOL NURSE, OR OTHER PERSON DESIGNATED BY THE SCHOOL DISTRICT, IS AUTHORIZED TO ADMINISTER AN EPINEPHRINE AUTO-INJECTOR IN THE EVENT OF AN EMERGENCY, WHETHER OR NOT THE PATIENT HAS BEEN PRESCRIBED EPINEPHRINE.

(C) 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)] (D) 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 2. 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:

1     2. (i) Any person who, or entity, partnership, corporation, firm or  
2 society that, purchases, operates, facilitates implementation or makes  
3 available resuscitation equipment that facilitates first aid, an auto-  
4 mated external defibrillator or an epinephrine auto-injector device as  
5 required by or pursuant to law or local law, or (ii) an emergency health  
6 care provider under a collaborative agreement pursuant to section three  
7 thousand-b of this article with respect to an automated external defi-  
8 brillator, or (iii) the emergency health care provider with a collabora-  
9 tive agreement under section three thousand-c of this article with  
10 respect to use of an epinephrine auto-injector device, OR (IV) A SCHOOL  
11 NURSE OR OTHER PERSON DESIGNATED BY A SCHOOL DISTRICT UNDER PARAGRAPH  
12 (B) OF SUBDIVISION THREE OF SECTION THREE THOUSAND-C OF THIS ARTICLE,  
13 shall not be liable for damages arising either from the use of that  
14 equipment by a person who voluntarily and without expectation of mone-  
15 tary compensation renders first aid or emergency treatment at the scene  
16 of an accident or medical emergency, or from the use of defectively  
17 manufactured equipment; provided that this subdivision shall not limit  
18 the person's or entity's, partnership's, corporation's, firm's, socie-  
19 ty's or the emergency health care provider's liability for his, her or  
20 its own negligence, gross negligence or intentional misconduct.  
21     S 3. This act shall take effect on the one hundred twentieth day after  
22 it shall have become a law. Effective immediately, the commissioner of  
23 health, in consultation with the commissioner of education, may promul-  
24 gate any rule or regulation necessary for the timely implementation of  
25 this act on its effective date.