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I N S E N A T E

February 23, 2016

Introduced by Sen. HANNON -- read twice and ordered printed, and when printed to be committed to the Committee on Health

AN ACT to amend the public health law, in relation to the use of epinephrine auto-injector devices

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 chap-
2 ter 578 of the laws of 1999, paragraph (a) of subdivision 1 as amended
3 by chapter 424 of the laws of 2014, 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] OR entity"
7 means[,] (i) an ambulance service or advanced life support first
8 response service; a certified first responder, emergency medical techni-
9 cian, or advanced emergency medical technician, who is employed by or an
10 enrolled member of any such service; (ii) a children's overnight camp as
11 defined in subdivision one of section thirteen hundred ninety-two of
12 this chapter, a summer day camp as defined in subdivision two of section
13 thirteen hundred ninety-two of this chapter, a traveling summer day camp
14 as defined in subdivision three of section thirteen hundred ninety-two
15 of this chapter or a person employed by such a camp; [or] (iii) A school
16 [districts, boards] DISTRICT, BOARD of cooperative educational services,
17 county vocational education and extension [boards] BOARD, charter
18 [schools] SCHOOL, and non-public elementary and secondary [schools]
19 SCHOOL in this state or any person employed by any such entity; or (iv)
20 A SPORTS, ENTERTAINMENT, AMUSEMENT, EDUCATION, GOVERNMENT, DAY CARE OR
21 RETAIL FACILITY; AN EDUCATIONAL INSTITUTION, YOUTH ORGANIZATION OR
22 SPORTS LEAGUE; AN ESTABLISHMENT THAT SERVES FOOD; OR A PERSON EMPLOYED
23 BY SUCH ENTITY; AND (v) any other person[, firm, organization] or entity
24 designated OR APPROVED, OR IN A CATEGORY DESIGNATED OR APPROVED pursuant
25 to regulations of the commissioner in consultation with other appropri-
26 ate agencies[; and all subject to regulations of the commissioner].

27 (b) ["Emergency health care provider" means (i) a physician with know-
28 ledge 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.

LBD14085-04-6

1 tal licensed under article twenty-eight of this chapter that provides
2 emergency care.] "EPINEPHRINE AUTO-INJECTOR DEVICE" MEANS A SINGLE-USE
3 DEVICE USED FOR THE AUTOMATIC INJECTION OF A PREMEASURED DOSE OF
4 EPINEPHRINE INTO THE HUMAN BODY FOR THE PURPOSE OF EMERGENCY TREATMENT
5 OF A PERSON APPEARING TO EXPERIENCE ANAPHYLACTIC SYMPTOMS APPROVED BY
6 THE FOOD AND DRUG ADMINISTRATION.

7 (C) "HEALTH CARE PRACTITIONER" MEANS A HEALTH CARE PRACTITIONER
8 LICENSED, CERTIFIED, OR AUTHORIZED TO PRACTICE UNDER TITLE EIGHT OF THE
9 EDUCATION LAW WHO IS AUTHORIZED THEREBY TO ADMINISTER DRUGS, AND WHO IS
10 ACTING WITHIN THE SCOPE OF HIS OR HER PRACTICE.

11 2. [Collaborative agreement.] POSSESSION AND USE. (A) Any eligible
12 person[, firm, organization] or [other] entity may purchase, acquire,
13 possess and use epinephrine auto-injector devices [pursuant to a colla-
14 borative agreement with an emergency health care provider] FOR EMERGENCY
15 TREATMENT OF A PERSON APPEARING TO EXPERIENCE ANAPHYLACTIC SYMPTOMS,
16 UNDER THIS SECTION.

17 (B) AN ELIGIBLE PERSON OR ENTITY SHALL DESIGNATE ONE OR MORE INDIVID-
18 UALS WHO HAVE COMPLETED THE TRAINING REQUIRED BY PARAGRAPH (C) OF THIS
19 SUBDIVISION TO BE RESPONSIBLE FOR THE STORAGE, MAINTENANCE, CONTROL, AND
20 GENERAL OVERSIGHT OF THE EPINEPHRINE AUTO-INJECTORS ACQUIRED BY THE
21 ELIGIBLE PERSON OR ENTITY. [The collaborative agreement shall include a
22 written agreement that incorporates written practice protocols, and
23 policies and procedures that shall ensure compliance with the provisions
24 of this section. The person, firm, organization or entity shall file a
25 copy of the collaborative agreement with the department and with the
26 appropriate regional council prior to using any epinephrine auto-injec-
27 tor device.

28 3. Possession and use of epinephrine auto-injector devices. Possession
29 and use of epinephrine auto-injector devices shall be limited as
30 follows:]

31 [(a)] (C) [No person shall] NO ONE MAY use an epinephrine auto-injec-
32 tor device [unless such person shall have] ON BEHALF OF AN ELIGIBLE
33 PERSON OR ENTITY UNLESS HE OR SHE HAS successfully completed a training
34 course in the use of epinephrine auto-injector devices CONDUCTED BY A
35 NATIONALLY RECOGNIZED ORGANIZATION EXPERIENCED IN TRAINING LAYPERSONS IN
36 EMERGENCY HEALTH TREATMENT OR BY AN ENTITY OR INDIVIDUAL approved by the
37 commissioner [pursuant to the rules of the department], OR IS DIRECTED
38 IN A SPECIFIC INSTANCE TO USE AN EPINEPHRINE AUTO-INJECTOR DEVICE BY A
39 HEALTH CARE PRACTITIONER. THE TRAINING REQUIRED BY THIS PARAGRAPH SHALL
40 INCLUDE (I) HOW TO RECOGNIZE SIGNS AND SYMPTOMS OF SEVERE ALLERGIC
41 REACTIONS, INCLUDING ANAPHYLAXIS; (II) RECOMMENDED DOSAGE FOR ADULTS AND
42 CHILDREN; (III) STANDARDS AND PROCEDURES FOR THE STORAGE AND ADMINIS-
43 TRATION OF AN EPINEPHRINE AUTO-INJECTOR; AND (IV) EMERGENCY FOLLOW-UP
44 PROCEDURES.

45 (D) This section does not prohibit the use of an epinephrine auto-in-
46 jector device (i) by a health care practitioner [licensed or certified
47 under title eight of the education law acting within the scope of his or
48 her practice,] or (ii) by a person acting pursuant to a lawful PATIENT-
49 SPECIFIC prescription.

50 [(b)] (E) Every ELIGIBLE person[, firm, organization] and entity
51 authorized to possess and use epinephrine auto-injector devices pursuant
52 to this section shall use, maintain and dispose of such devices pursuant
53 to regulations of the department.

54 [(c) Every use of an epinephrine auto-injector device pursuant to this
55 section shall immediately be reported to the emergency health care
56 provider.]

1 (F) NOTHING IN THIS SECTION SHALL REQUIRE ANY ELIGIBLE PERSON OR ENTI-
2 TY TO ACQUIRE, POSSESS, STORE, MAKE AVAILABLE, OR ADMINISTER AN EPINEPH-
3 RINE AUTO-INJECTOR.

4 3. PRESCRIPTIONS. (A) A HEALTH CARE PRACTITIONER WHO IS AUTHORIZED TO
5 PRESCRIBE DRUGS MAY PRESCRIBE, DISPENSE OR PROVIDE AN EPINEPHRINE AUTO-
6 INJECTOR DEVICE TO OR FOR AN ELIGIBLE PERSON OR ENTITY BY A NON-PA-
7 TIENT-SPECIFIC PRESCRIPTION.

8 (B) A PHARMACIST MAY DISPENSE AN EPINEPHRINE AUTO-INJECTOR PURSUANT TO
9 A NON-PATIENT-SPECIFIC PRESCRIPTION UNDER THIS SUBDIVISION.

10 (C) THIS SUBDIVISION DOES NOT LIMIT ANY OTHER AUTHORITY A HEALTH CARE
11 PRACTITIONER OR PHARMACIST HAS TO PRESCRIBE, DISPENSE, PROVIDE OR ADMIN-
12 ISTER AN EPINEPHRINE AUTO-INJECTOR DEVICE.

13 4. Application of other laws. (a) Use of an epinephrine auto-injector
14 device pursuant to this section shall be considered first aid or emer-
15 gency treatment for the purpose of any statute relating to liability.

16 (b) Purchase, acquisition, possession or use of an epinephrine auto-
17 injector device pursuant to this section shall not constitute the unlaw-
18 ful practice of a profession or other violation under title eight of the
19 education law or article thirty-three of this chapter.

20 (c) Any person otherwise authorized to sell or provide an epinephrine
21 auto-injector device may sell or provide it to a person OR ENTITY
22 authorized to possess it pursuant to this section.

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

26 2. (i) Any person [who,] or entity[, partnership, corporation, firm or
27 society] that[,] purchases, operates, facilitates implementation or
28 makes available resuscitation equipment that facilitates first aid, an
29 automated external defibrillator or an epinephrine auto-injector device
30 as required by or pursuant to law or local law, OR THAT CONDUCTS TRAIN-
31 ING UNDER SECTION THREE THOUSAND-C OF THIS ARTICLE, or (ii) an emergency
32 health care provider under a collaborative agreement pursuant to section
33 three thousand-b of this article with respect to an automated external
34 defibrillator, or (iii) [the emergency health care provider with a
35 collaborative agreement] A HEALTH CARE PRACTITIONER THAT PRESCRIBES,
36 DISPENSES OR PROVIDES AN EPINEPHRINE AUTO-INJECTOR DEVICE under section
37 three thousand-c of this article [with respect to use of an epinephrine
38 auto-injector device], shall not be liable for damages arising either
39 from the use of that equipment by a person who voluntarily and without
40 expectation of monetary compensation renders first aid or emergency
41 treatment at the scene of an accident or medical emergency, or from the
42 use of defectively manufactured equipment; provided that this subdivi-
43 sion shall not limit the person's or entity's, [partnership's, corpo-
44 ration's, firm's, society's or] the emergency health care provider's, OR
45 OTHER HEALTH CARE PRACTITIONER'S liability for his, her or its own
46 negligence, gross negligence or intentional misconduct.

47 S 3. This act shall take effect on the one hundred eightieth day after
48 it shall have become a law; provided that, effective immediately, the
49 commissioner of health shall make regulations and take other actions
50 necessary to implement this act on such effective date.