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2015-2016 Regular Sessions

I N   A S S E M B L Y

(PREFILED)

January 7, 2015

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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 ASSEM-  
BLY, DO ENACT AS FOLLOWS:

1     Section 1. Subdivision 2 of section 3000-a of the public health law,  
2     as amended by chapter 243 of the laws of 2010, is amended to read as  
3     follows:  
4     2. (i) Any person who, or entity, partnership, corporation, firm or  
5     society that, purchases, operates, facilitates implementation or makes  
6     available resuscitation equipment that facilitates first aid, an auto-  
7     mated external defibrillator [or], an epinephrine auto-injector device  
8     OR A GLUCAGON EMERGENCY INJECTION KIT as required by or pursuant to law  
9     or local law, or (ii) an emergency health care provider under a collabo-  
10    rative agreement pursuant to section three thousand-b of this article  
11    with respect to an automated external defibrillator, or (iii) the emer-  
12    gency health care provider with a collaborative agreement under section  
13    three thousand-c of this article with respect to use of an epinephrine  
14    auto-injector device, OR (IV) THE EMERGENCY HEALTH CARE PROVIDER WITH A  
15    COLLABORATIVE AGREEMENT UNDER SECTION THREE THOUSAND-E OF THIS ARTICLE  
16    WITH RESPECT TO USE OF A GLUCAGON EMERGENCY INJECTION KIT, shall not be  
17    liable for damages arising either from the use of that equipment by a  
18    person who voluntarily and without expectation of monetary compensation  
19    renders first aid or emergency treatment at the scene of an accident or  
20    medical emergency, or from the use of defectively manufactured equip-  
21    ment; provided that this subdivision shall not limit the person's or  
22    entity's, partnership's, corporation's, firm's, society's or the emer-

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

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1 agency health care provider's liability for his, her or its own negli-  
2 gence, gross negligence or intentional misconduct.

3 S 2. Subdivision 3 of section 3000-c of the public health law is  
4 amended by adding a new paragraph (d) to read as follows:

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

9 S 3. The public health law is amended by adding a new section 3000-e  
10 to read as follows:

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

13 (A) "ELIGIBLE PERSON, FIRM, ORGANIZATION, OR OTHER ENTITY" MEANS, (I)  
14 AN AMBULANCE SERVICE OR ADVANCED LIFE SUPPORT FIRST RESPONSE SERVICE; A  
15 CERTIFIED FIRST RESPONDER, EMERGENCY MEDICAL TECHNICIAN, OR ADVANCED  
16 EMERGENCY MEDICAL TECHNICIAN, WHO IS EMPLOYED BY OR AN ENROLLED MEMBER  
17 OF ANY SUCH SERVICE; (II) A CHILDREN'S OVERNIGHT CAMP AS DEFINED IN  
18 SUBDIVISION ONE OF SECTION THIRTEEN HUNDRED NINETY-TWO OF THIS CHAPTER,  
19 A SUMMER DAY CAMP AS DEFINED IN SUBDIVISION TWO OF SECTION THIRTEEN  
20 HUNDRED NINETY-TWO OF THIS CHAPTER, A TRAVELING SUMMER DAY CAMP AS  
21 DEFINED IN SUBDIVISION THREE OF SECTION THIRTEEN HUNDRED NINETY-TWO OF  
22 THIS CHAPTER OR A PERSON EMPLOYED BY SUCH A CAMP; (III) ANY OTHER  
23 PERSON, FIRM, ORGANIZATION OR ENTITY DESIGNATED PURSUANT TO REGULATIONS  
24 OF THE COMMISSIONER IN CONSULTATION WITH OTHER APPROPRIATE AGENCIES; OR  
25 (IV) A SCHOOL DISTRICT OR ANY PERSON EMPLOYED BY A SCHOOL DISTRICT WHO  
26 IS DESIGNATED AS SUCH; AND ALL SUBJECT TO REGULATIONS OF THE COMMISSION-  
27 ER.

28 (B) "EMERGENCY HEALTH CARE PROVIDER" MEANS (I) A PHYSICIAN WITH KNOW-  
29 LEDGE AND EXPERIENCE IN THE DELIVERY OF EMERGENCY CARE; OR (II) A HOSPI-  
30 TAL LICENSED UNDER ARTICLE TWENTY-EIGHT OF THIS CHAPTER THAT PROVIDES  
31 EMERGENCY CARE.

32 2. COLLABORATIVE AGREEMENT. ANY ELIGIBLE PERSON, FIRM, ORGANIZATION OR  
33 OTHER ENTITY MAY PURCHASE, ACQUIRE, POSSESS AND USE GLUCAGON FOR EMER-  
34 GENCY INJECTION KITS PURSUANT TO A COLLABORATIVE AGREEMENT WITH AN EMER-  
35 GENCY HEALTH CARE PROVIDER. THE COLLABORATIVE AGREEMENT SHALL INCLUDE A  
36 WRITTEN AGREEMENT THAT INCORPORATES WRITTEN PRACTICE PROTOCOLS, AND  
37 POLICIES AND PROCEDURES THAT SHALL ENSURE COMPLIANCE WITH THE PROVISIONS  
38 OF THIS SECTION. THE PERSON, FIRM, ORGANIZATION OR ENTITY SHALL FILE A  
39 COPY OF THE COLLABORATIVE AGREEMENT WITH THE DEPARTMENT AND WITH APPRO-  
40 PRIATE REGIONAL COUNCIL PRIOR TO USING ANY GLUCAGON FOR EMERGENCY  
41 INJECTION KITS.

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

45 (A) NO PERSON SHALL USE A GLUCAGON EMERGENCY INJECTION KIT UNLESS SUCH  
46 PERSON SHALL HAVE SUCCESSFULLY COMPLETED A TRAINING COURSE IN THE USE OF  
47 GLUCAGON EMERGENCY INJECTION KITS APPROVED BY THE COMMISSIONER PURSUANT  
48 TO THE RULES OF THE DEPARTMENT. THIS SECTION SHALL NOT BE DEEMED TO  
49 PROHIBIT THE USE OF A GLUCAGON EMERGENCY INJECTION KIT (I) BY A HEALTH  
50 CARE PRACTITIONER LICENSED OR CERTIFIED UNDER TITLE EIGHT OF THE EDUCA-  
51 TION LAW ACTING WITHIN THE SCOPE OF HIS OR HER PRACTICE, OR (II) BY A  
52 PERSON ACTING PURSUANT TO A LAWFUL PRESCRIPTION.

53 (B) EVERY PERSON, FIRM, ORGANIZATION AND ENTITY AUTHORIZED TO POSSESS  
54 AND USE GLUCAGON EMERGENCY INJECTION KITS PURSUANT TO THIS SECTION SHALL  
55 USE, MAINTAIN AND DISPOSE OF SUCH KITS PURSUANT TO REGULATIONS OF THE  
56 DEPARTMENT.

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

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

8 4. APPLICATION OF OTHER LAWS. (A) USE OF A GLUCAGON EMERGENCY  
9 INJECTION KIT PURSUANT TO THIS SECTION SHALL BE CONSIDERED FIRST AID OR  
10 EMERGENCY TREATMENT FOR THE PURPOSE OF ANY STATUTE RELATING TO LIABIL-  
11 ITY.

12 (B) PURCHASE, ACQUISITION, POSSESSION OR USE OF A GLUCAGON EMERGENCY  
13 INJECTION KIT PURSUANT TO THIS SECTION SHALL NOT CONSTITUTE THE UNLAWFUL  
14 PRACTICE OF A PROFESSION OR OTHER VIOLATION UNDER TITLE EIGHT OF THE  
15 EDUCATION LAW OR ARTICLE THIRTY-THREE OF THIS CHAPTER.

16 (C) ANY PERSON OTHERWISE AUTHORIZED TO SELL OR PROVIDE A GLUCAGON FOR  
17 EMERGENCY INJECTION KIT MAY SELL OR PROVIDE IT TO A PERSON AUTHORIZED TO  
18 POSSESS IT PURSUANT TO THIS SECTION.

19 S 4. This act shall take effect immediately.