

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

7349--A

2015-2016 Regular Sessions

I N A S S E M B L Y

May 6, 2015

Introduced by M. of A. ABINANTI, MILLER, OTIS, RIVERA, BUCHWALD, GALEF, SIMON, PICHARDO, COOK, PERRY, PALUMBO, MONTESANO, MURRAY, STECK, ORTIZ -- read once and referred to the Committee on Health -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the public health law, in relation to authorizing emergency allergy treatment

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

1 Section 1. This act shall be known and may be cited as the "Emergency
2 Allergy Treatment Act."

3 S 2. The public health law is amended by adding a new article 30-D to
4 read as follows:

5 ARTICLE 30-D

6 EMERGENCY ALLERGY TREATMENT

7 SECTION 3080. DEFINITIONS.

8 3081. EMERGENCY ALLERGY TREATMENT.

9 3082. EPINEPHRINE AUTO-INJECTORS; EMERGENCY ADMINISTRATION.

10 3083. LIABILITY.

11 S 3080. DEFINITIONS. FOR PURPOSES OF THIS ARTICLE:

12 1. "ADMINISTER" MEANS TO DIRECTLY APPLY AN EPINEPHRINE AUTO-INJECTOR
13 TO THE BODY OF AN INDIVIDUAL.

14 2. "AUTHORIZED ENTITY" MEANS AN ENTITY OR ORGANIZATION AT OR IN
15 CONNECTION WITH WHICH ALLERGENS CAPABLE OF CAUSING A SEVERE ALLERGIC
16 REACTION MAY BE PRESENT. THE TERM INCLUDES, BUT IS NOT LIMITED TO,
17 RESTAURANTS, RECREATION CAMPS, YOUTH SPORTS LEAGUES, THEME PARKS AND
18 RESORTS, ENTERTAINMENT VENUES AND SPORTS ARENAS.

19 3. "AUTHORIZED HEALTH CARE PRACTITIONER" MEANS A LICENSED PRACTITIONER
20 AUTHORIZED BY THE LAWS OF THE STATE TO PRESCRIBE DRUGS.

21 4. "DEPARTMENT" MEANS THE DEPARTMENT OF HEALTH.

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

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1 5. "EPINEPHRINE AUTO-INJECTOR" MEANS A SINGLE-USE DEVICE USED FOR THE
2 AUTOMATIC INJECTION OF A PREMEASURED DOSE OF EPINEPHRINE INTO THE HUMAN
3 BODY.

4 6. "SELF-ADMINISTRATION" MEANS AN INDIVIDUAL'S DISCRETIONARY ADMINIS-
5 TRATION OF AN EPINEPHRINE AUTO-INJECTOR ON HERSELF OR HIMSELF.

6 S 3081. EMERGENCY ALLERGY TREATMENT. 1. NOTWITHSTANDING ANY OTHER
7 PROVISION OF LAW TO THE CONTRARY, THIS SECTION ALLOWS FOR THE CERTIF-
8 ICATION OF PERSONS TO ADMINISTER LIFESAVING TREATMENT TO INDIVIDUALS WHO
9 HAVE SEVERE ALLERGIC REACTIONS WHEN A PHYSICIAN IS NOT IMMEDIATELY
10 AVAILABLE.

11 2. THE DEPARTMENT MAY:

12 (A) ADOPT RULES NECESSARY TO ADMINISTER THE PROVISIONS OF THIS ARTI-
13 CLE.

14 (B) CONDUCT EDUCATIONAL TRAINING PROGRAMS AS DESCRIBED IN SUBDIVISION
15 THREE OF THIS SECTION AND APPROVE PROGRAMS CONDUCTED BY OTHER ORGANIZA-
16 TIONS OR GOVERNMENTAL AGENCIES.

17 (C) ISSUE AND RENEW CERTIFICATES OF TRAINING TO PERSONS WHO HAVE
18 COMPLIED WITH THIS SECTION AND THE RULES ADOPTED BY THE DEPARTMENT.

19 (D) COLLECT FEES NECESSARY TO ADMINISTER THE PROVISIONS OF THIS ARTI-
20 CLE.

21 3. EDUCATIONAL TRAINING PROGRAMS REQUIRED BY THIS SECTION SHALL BE
22 CONDUCTED BY A NATIONALLY RECOGNIZED ORGANIZATION EXPERIENCED IN TRAIN-
23 ING LAYPERSONS IN EMERGENCY HEALTH TREATMENT OR AN ENTITY OR INDIVIDUAL
24 APPROVED BY THE DEPARTMENT. THE CURRICULUM MUST INCLUDE AT A MINIMUM:

25 (A) RECOGNITION OF THE SYMPTOMS OF SYSTEMIC REACTIONS TO FOOD, INSECT
26 STINGS, AND OTHER ALLERGENS; AND

27 (B) THE PROPER ADMINISTRATION OF AN EPINEPHRINE AUTO-INJECTOR.

28 4. A CERTIFICATE OF TRAINING MAY BE GIVEN TO A PERSON WHO:

29 (A) IS EIGHTEEN YEARS OF AGE OR OLDER;

30 (B) HAS, OR REASONABLY EXPECTS TO HAVE, RESPONSIBILITY FOR OR CONTACT
31 WITH AT LEAST ONE OTHER PERSON AS A RESULT OF HIS OR HER OCCUPATIONAL OR
32 VOLUNTEER STATUS, INCLUDING, BUT NOT LIMITED TO, A CAMP COUNSELOR, SCOUT
33 LEADER, FOREST RANGER, TOUR GUIDE, MANAGER, WAIT STAFF OR CHAPERONE; AND

34 (C) HAS SUCCESSFULLY COMPLETED AN EDUCATIONAL TRAINING PROGRAM AS
35 DESCRIBED IN SUBDIVISION THREE OF THIS SECTION.

36 5. A PERSON WHO SUCCESSFULLY COMPLETES AN EDUCATIONAL TRAINING PROGRAM
37 MAY OBTAIN A CERTIFICATE UPON APPLICATION TO THE DEPARTMENT ACCORDING TO
38 SUCH REGULATION AS THE DEPARTMENT MAY PROMULGATE.

39 6. AN AUTHORIZED ENTITY WHICH HAS ONE OR MORE VOLUNTEERS OR EMPLOYEES
40 WHO HAVE SUCCESSFULLY COMPLETED AN EDUCATIONAL PROGRAM MAY OBTAIN A
41 CERTIFICATE AUTHORIZING SUCH ENTITY TO OBTAIN A CERTIFICATE AUTHORIZING
42 THE HOLDER TO RECEIVE, UPON PRESENTMENT OF THE CERTIFICATE, A
43 PRESCRIPTION FOR EPINEPHRINE AUTO-INJECTORS FROM AN AUTHORIZED HEALTH
44 CARE PRACTITIONER OR THE DEPARTMENT. THE CERTIFICATE ALSO AUTHORIZES THE
45 HOLDER, IN AN EMERGENCY SITUATION WHEN A PHYSICIAN IS NOT IMMEDIATELY
46 AVAILABLE, TO POSSESS AND ADMINISTER, OR DELIVER A PRESCRIBED EPINEPH-
47 RINE AUTO-INJECTOR TO A PERSON EXPERIENCING A SEVERE ALLERGIC REACTION.

48 S 3082. EPINEPHRINE AUTO-INJECTORS; EMERGENCY ADMINISTRATION. 1. AN
49 AUTHORIZED HEALTH CARE PRACTITIONER MAY PRESCRIBE EPINEPHRINE AUTO-IN-
50 JECTORS IN THE NAME OF AN AUTHORIZED ENTITY FOR USE IN ACCORDANCE WITH
51 THIS SECTION, AND PHARMACISTS MAY DISPENSE EPINEPHRINE AUTO-INJECTORS
52 PURSUANT TO A PRESCRIPTION ISSUED IN THE NAME OF AN AUTHORIZED ENTITY.

53 2. AN AUTHORIZED ENTITY MAY ACQUIRE AND STOCK A SUPPLY OF EPINEPHRINE
54 AUTO-INJECTORS PURSUANT TO A PRESCRIPTION ISSUED IN ACCORDANCE WITH THIS
55 SECTION. SUCH EPINEPHRINE AUTO-INJECTORS MUST BE STORED IN ACCORDANCE
56 WITH THE EPINEPHRINE AUTO-INJECTOR'S INSTRUCTIONS FOR USE AND WITH ANY

1 ADDITIONAL REQUIREMENTS THAT MAY BE ESTABLISHED BY THE DEPARTMENT. AN
2 AUTHORIZED ENTITY SHALL DESIGNATE EMPLOYEES OR AGENTS WHO HOLD A CERTIF-
3 ICATE ISSUED PURSUANT TO SECTION THREE THOUSAND EIGHTY-ONE OF THIS ARTI-
4 CLE TO BE RESPONSIBLE FOR THE STORAGE, MAINTENANCE, AND GENERAL OVER-
5 SIGHT OF EPINEPHRINE AUTO-INJECTORS ACQUIRED BY THE AUTHORIZED ENTITY.

6 3. AN INDIVIDUAL WHO HOLDS A CERTIFICATE ISSUED PURSUANT TO SECTION
7 THREE THOUSAND EIGHTY-ONE OF THIS ARTICLE MAY, ON THE PREMISES OF OR IN
8 CONNECTION WITH THE AUTHORIZED ENTITY, USE EPINEPHRINE AUTO-INJECTORS
9 PRESCRIBED PURSUANT TO SUBDIVISION ONE OF THIS SECTION TO:

10 (A) PROVIDE AN EPINEPHRINE AUTO-INJECTOR TO A PERSON WHO THE CERTIFIED
11 INDIVIDUAL IN GOOD FAITH BELIEVES IS EXPERIENCING A SEVERE ALLERGIC
12 REACTION FOR THAT PERSON'S IMMEDIATE SELF-ADMINISTRATION, REGARDLESS OF
13 WHETHER THE PERSON HAS A PRESCRIPTION FOR AN EPINEPHRINE AUTO-INJECTOR
14 OR HAS PREVIOUSLY BEEN DIAGNOSED WITH AN ALLERGY.

15 (B) ADMINISTER AN EPINEPHRINE AUTO-INJECTOR TO A PERSON WHO THE CERTI-
16 FIED INDIVIDUAL IN GOOD FAITH BELIEVES IS EXPERIENCING A SEVERE ALLERGIC
17 REACTION, REGARDLESS OF WHETHER THE PERSON HAS A PRESCRIPTION FOR AN
18 EPINEPHRINE AUTO-INJECTOR OR HAS PREVIOUSLY BEEN DIAGNOSED WITH AN
19 ALLERGY.

20 4. AN AUTHORIZED ENTITY THAT ACQUIRES A STOCK SUPPLY OF EPINEPHRINE
21 AUTO-INJECTORS PURSUANT TO A PRESCRIPTION ISSUED BY AN AUTHORIZED HEALTH
22 CARE PRACTITIONER IN ACCORDANCE WITH THIS SECTION MAY MAKE THE AUTO-IN-
23 JECTORS AVAILABLE TO INDIVIDUALS OTHER THAN CERTIFIED INDIVIDUALS IDEN-
24 TIFIED IN SUBDIVISION THREE OF THIS SECTION WHO MAY ADMINISTER THE
25 AUTO-INJECTOR TO A PERSON BELIEVED IN GOOD FAITH TO BE EXPERIENCING A
26 SEVERE ALLERGIC REACTION IF THE EPINEPHRINE AUTO-INJECTORS ARE STORED IN
27 A SECURE LOCATION AND ARE MADE AVAILABLE ONLY UPON REMOTE AUTHORIZATION
28 BY AN AUTHORIZED ENTITY, A 911 EMERGENCY REPRESENTATIVE, A PERSON HOLD-
29 ING A CURRENT CERTIFICATE OF TRAINING OR AN AUTHORIZED HEALTH CARE PRAC-
30 TITIONER AFTER CONSULTATION WITH THE AUTHORIZED HEALTH CARE PRACTITIONER
31 BY AUDIO, OR OTHER MEANS OF ELECTRONIC COMMUNICATION. CONSULTATION WITH
32 AN AUTHORIZED HEALTH CARE PRACTITIONER FOR THIS PURPOSE IS NOT CONSID-
33 ERED THE PRACTICE OF TELEMEDICINE OR OTHERWISE CONSTRUED AS VIOLATING
34 ANY LAW OR RULE REGULATING THE AUTHORIZED HEALTH CARE PRACTITIONER'S
35 PROFESSIONAL PRACTICE.

36 S 3083. LIABILITY. AN AUTHORIZED ENTITY AND/OR ITS AGENTS OR EMPLOYEES
37 SHALL INCUR NO LEGAL OR FINANCIAL LIABILITY AS A RESULT OF ANY HARM OR
38 INJURY SUSTAINED BY A PERSON CAUSED BY REASONABLE AND GOOD FAITH COMPLI-
39 ANCE WITH THIS ARTICLE.

40 S 3. This act shall take effect on the one hundred eightieth day after
41 it shall have become law. Effective immediately, the addition, amendment
42 and/or repeal of any rule or regulation necessary for the implementation
43 of this act on its effective date is authorized to be made and completed
44 on or before such effective date.