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

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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:

Section 1. Section 3000-c of the public health law, as added by chapter 578 of the laws of 1999, paragraph (a) of subdivision 1 as amended by chapter 424 of the laws of 2014, is amended to read as follows:

S 3000-c. Epinephrine auto-injector devices. 1. Definitions. As used in this section:

(a) "Eligible person[, firm, organization, or other] OR 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) A school [districts, boards] DISTRICT, BOARD of cooperative educational services, county vocational education and extension [boards] BOARD, charter [schools] SCHOOL, and non-public elementary and secondary [schools] SCHOOL in this state or any person employed by any such entity; or (iv) A SPORTS, ENTERTAINMENT, AMUSEMENT, EDUCATION, GOVERNMENT, DAY CARE OR RETAIL FACILITY; AN EDUCATIONAL INSTITUTION, YOUTH ORGANIZATION OR SPORTS LEAGUE; AN ESTABLISHMENT THAT SERVES FOOD; OR A PERSON EMPLOYED BY SUCH ENTITY; AND (V) any other person[, firm, organization] or entity designated OR APPROVED, OR IN A CATEGORY DESIGNATED OR APPROVED pursuant to regulations of the commissioner in consultation with other appropriate agencies[; 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 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.] "EPINEPHRINE AUTO-INJECTOR DEVICE" MEANS A SINGLE-USE DEVICE USED FOR THE AUTOMATIC INJECTION OF A PREMEASURED DOSE OF EPINEPHRINE INTO THE HUMAN BODY FOR THE PURPOSE OF EMERGENCY TREATMENT OF A PERSON APPEARING TO EXPERIENCE ANAPHYLACTIC SYMPTOMS APPROVED BY THE FOOD AND DRUG ADMINISTRATION.

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

2. [Collaborative agreement.] POSSESSION AND USE. (A) 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] FOR EMERGENCY TREATMENT OF A PERSON APPEARING TO EXPERIENCE ANAPHYLACTIC SYMPTOMS, UNDER THIS SECTION.

(B) AN ELIGIBLE PERSON OR ENTITY SHALL DESIGNATE ONE OR MORE INDIVIDUALS WHO HAVE COMPLETED THE TRAINING REQUIRED BY PARAGRAPH (C) OF THIS SUBDIVISION TO BE RESPONSIBLE FOR THE STORAGE, MAINTENANCE, CONTROL, AND GENERAL OVERSIGHT OF THE EPINEPHRINE AUTO-INJECTORS ACQUIRED BY THE ELIGIBLE PERSON OR ENTITY. [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)] (C) [No person shall] NO ONE MAY use an epinephrine auto-injector device [unless such person shall have] ON BEHALF OF AN ELIGIBLE PERSON OR ENTITY UNLESS HE OR SHE HAS successfully completed a training course in the use of epinephrine auto-injector devices CONDUCTED BY A NATIONALLY RECOGNIZED ORGANIZATION EXPERIENCED IN TRAINING LAYPERSONS IN EMERGENCY HEALTH TREATMENT OR BY AN ENTITY OR INDIVIDUAL approved by the commissioner [pursuant to the rules of the department], OR IS DIRECTED IN A SPECIFIC INSTANCE TO USE AN EPINEPHRINE AUTO-INJECTOR DEVICE BY A HEALTH CARE PRACTITIONER. THE TRAINING REQUIRED BY THIS PARAGRAPH SHALL INCLUDE (I) HOW TO RECOGNIZE SIGNS AND SYMPTOMS OF SEVERE ALLERGIC REACTIONS, INCLUDING ANAPHYLAXIS; (II) RECOMMENDED DOSAGE FOR ADULTS AND CHILDREN; (III) STANDARDS AND PROCEDURES FOR THE STORAGE AND ADMINISTRATION OF AN EPINEPHRINE AUTO-INJECTOR; AND (IV) EMERGENCY FOLLOW-UP PROCEDURES.

(D) 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 PATIENT-SPECIFIC prescription.

[(b)] (E) Every ELIGIBLE 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) Every use of an epinephrine auto-injector device pursuant to this section shall immediately be reported to the emergency health care provider.]

(F) NOTHING IN THIS SECTION SHALL REQUIRE ANY ELIGIBLE PERSON OR ENTITY TO ACQUIRE, POSSESS, STORE, MAKE AVAILABLE, OR ADMINISTER AN EPINEPHRINE AUTO-INJECTOR.

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

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

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

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 OR ENTITY 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:

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 as required by or pursuant to law or local law, OR THAT CONDUCTS TRAINING UNDER SECTION THREE THOUSAND-C OF THIS ARTICLE, 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] A HEALTH CARE PRACTITIONER THAT PRESCRIBES, DISPENSES OR PROVIDES AN EPINEPHRINE AUTO-INJECTOR DEVICE under section three thousand-c of this article [with respect to use of an epinephrine auto-injector device], 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, OR OTHER HEALTH CARE PRACTITIONER'S liability for his, her or its own negligence, gross negligence or intentional misconduct.

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