

STATE OF NEW YORK

4935

2021-2022 Regular Sessions

IN SENATE

February 18, 2021

Introduced by Sens. RIVERA, BAILEY, KAMINSKY, LIU, SEPULVEDA -- 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 rescue inhaler treatment devices

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. The public health law is amended by adding a new section 3000-e to read as follows:

§ 3000-e. Rescue inhaler treatment devices. 1. Definitions. As used in this section:

(a) "Eligible person 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; (iii) a school district, board of cooperative educational services, county vocational education and extension board, charter school, and non-public elementary and secondary school in this state or any person employed by any such entity, or employed by a contractor of such an entity while performing services for the 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 or entity designated or approved, or in a category designated or approved pursuant to regu-

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

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1 lations of the commissioner in consultation with other appropriate agen-
2 cies.

3 (b) "Rescue inhaler treatment device" means a device used for the
4 self-administration of inhaled rescue medications into the human body
5 for the purpose of emergency treatment of a person appearing to experi-
6 ence an asthmatic or other respiratory disease approved by the food and
7 drug administration.

8 (c) "Health care practitioner" means a health care practitioner
9 licensed, certified, or authorized to practice under title eight of the
10 education law who is authorized thereby to administer drugs, and who is
11 acting within the scope of his or her practice.

12 2. Possession and use. (a) Any eligible person or entity may purchase,
13 acquire, possess and use rescue inhaler treatment devices for emergency
14 treatment of a person appearing to experience asthmatic or other respir-
15 atory disease symptoms, under this section.

16 (b) An eligible person or entity shall designate one or more individ-
17 uals who have completed the training required by paragraph (c) of this
18 subdivision to be responsible for the storage, maintenance, control, and
19 general oversight of the rescue inhaler treatment devices acquired by
20 the eligible person or entity.

21 (c) No one may use a rescue inhaler treatment device on behalf of an
22 eligible person or entity unless he or she has successfully completed a
23 training course in the use of rescue inhaler treatment devices conducted
24 by a nationally recognized organization experienced in training layper-
25 sons in emergency health treatment or by an entity or individual
26 approved by the commissioner, or is directed in a specific instance to
27 use a rescue inhaler treatment device by a health care practitioner. The
28 training required by this paragraph shall include (i) how to recognize
29 signs and symptoms of severe asthmatic or other respiratory disease
30 reactions; (ii) recommended dosage for adults and children; (iii) stand-
31 ards and procedures for the storage and administration of a rescue
32 inhaler treatment; and (iv) emergency follow-up procedures.

33 (d) This section does not prohibit the use of a rescue inhaler treat-
34 ment device (i) by a health care practitioner or (ii) by a person acting
35 pursuant to a lawful patient-specific prescription.

36 (e) Every eligible person and entity authorized to possess and use
37 rescue inhaler treatment devices pursuant to this section shall use and
38 maintain such devices pursuant to regulations of the department.

39 (f) Nothing in this section shall require any eligible person or enti-
40 ty to acquire, possess, store, make available, or administer a rescue
41 inhaler treatment.

42 3. Prescriptions. (a) A health care practitioner who is authorized to
43 prescribe drugs may prescribe, dispense or provide a rescue inhaler
44 treatment device to or for an eligible person or entity by a non-pa-
45 tient-specific prescription.

46 (b) A pharmacist may dispense a rescue inhaler treatment pursuant to a
47 non-patient-specific prescription under this subdivision.

48 (c) This subdivision does not limit any other authority a health care
49 practitioner or pharmacist has to prescribe, dispense, provide or admin-
50 ister a rescue inhaler treatment device.

51 4. Application of other laws. (a) Use of a rescue inhaler treatment
52 device pursuant to this section shall be considered first aid or emer-
53 gency treatment for the purpose of any statute relating to liability.

54 (b) Purchase, acquisition, possession or use of a rescue inhaler
55 treatment device pursuant to this section shall not constitute the

1 unlawful practice of a profession or other violation under title eight
2 of the education law or article thirty-three of this chapter.

3 (c) Any person otherwise authorized to sell or provide a rescue inhal-
4 er treatment device may sell or provide it to a person or entity author-
5 ized to possess it pursuant to this section.

6 § 2. This act shall take effect immediately.