

# STATE OF NEW YORK

2440

2021-2022 Regular Sessions

## IN ASSEMBLY

January 19, 2021

Introduced by M. of A. REYES, LUPARDO, BARRON, SEAWRIGHT, SIMON,  
DARLING, DAVILA, O'DONNELL -- read once and referred 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 Assem-  
bly, 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 respon-  
der, emergency medical technician, or advanced emergency medical techni-  
cian, 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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lations of the commissioner in consultation with other appropriate agencies.

(b) "Rescue inhaler treatment device" means a device used for the self-administration of inhaled rescue medications into the human body for the purpose of emergency treatment of a person appearing to experience an asthmatic or other respiratory disease 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. Possession and use. (a) Any eligible person or entity may purchase, acquire, possess and use rescue inhaler treatment devices for emergency treatment of a person appearing to experience asthmatic or other respiratory disease 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 rescue inhaler treatment devices acquired by the eligible person or entity.

(c) No one may use a rescue inhaler treatment device on behalf of an eligible person or entity unless he or she has successfully completed a training course in the use of rescue inhaler treatment 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, or is directed in a specific instance to use a rescue inhaler treatment device by a health care practitioner. The training required by this paragraph shall include (i) how to recognize signs and symptoms of severe asthmatic or other respiratory disease reactions; (ii) recommended dosage for adults and children; (iii) standards and procedures for the storage and administration of a rescue inhaler treatment; and (iv) emergency follow-up procedures.

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

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

(f) Nothing in this section shall require any eligible person or entity to acquire, possess, store, make available, or administer a rescue inhaler treatment.

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

(b) A pharmacist may dispense a rescue inhaler treatment 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 a rescue inhaler treatment device.

4. Application of other laws. (a) Use of a rescue inhaler treatment 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 a rescue inhaler treatment 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 a rescue inhaler treatment device may sell or provide it to a person or entity authorized to possess it pursuant to this section.

§ 2. This act shall take effect immediately.