STATE OF NEW YORK

5392--B

2025-2026 Regular Sessions

IN ASSEMBLY

February 13, 2025

Introduced by M. of A. ROSENTHAL -- read once and referred to the Committee on Health -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the public health law, the education law and the insurance law, in relation to expanding the definition of epinephrine devices to include epinephrine nasal sprays

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 amended by chapter 373 of the laws of 2016, paragraph (a) of subdivision 1 as amended by chapter 472 of the laws of 2024, and paragraph (f) of subdivision 2 as amended by chapter 373 of the laws of 2016, is amended to read as follows:

§ 3000-c. Epinephrine [~~auto-injector~~] 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, firefighter in a county, city, town or village having a population of less than two million provided such county is not wholly located within a city with a population of more than one million, 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

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

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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; (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; (v) a police officer or peace officer in a county, city, town or village having a population of less than two million provided such county is not wholly located within a city with a population of more than one million; (vi) forest rangers, park rangers and environmental conservation police officers; and (vii) any other person or entity designated or approved, or in a category designated or approved pursuant to regulations of the commissioner in consultation with other appropriate agencies.

(b) "Epinephrine [~~auto-injector~~] device" means [~~a single-use~~] **an epinephrine delivery** device **or product approved by the federal food and drug administration and** used for the automatic injection **or administration** 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~~] **such health care practitioner's** practice.

2. Possession and use. (a) Any eligible person or entity may purchase, acquire, possess and use epinephrine [~~auto-injector~~] devices 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~~] **devices** acquired by the eligible person or entity.

(c) No one may use an epinephrine [~~auto-injector~~] device on behalf of an eligible person or entity unless [~~he or she has~~] **they have** 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, 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~~] **device**; 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 or (ii) by a person acting pursuant to a lawful patient-specific prescription.

(e) Every eligible person 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.

(f) Nothing in this section shall require any eligible person or entity to acquire, possess, store, make available, or administer an epinephrine [~~auto-injector~~] **device**.

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~~] **device** 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.

§ 2. Paragraph (f) of subdivision 2 of section 3000-c of the public health law, as amended by chapter 22 of the laws of 2025, is amended to read as follows:

(f) Nothing in this section shall require any eligible person or entity to acquire, possess, store, make available, or administer an epinephrine [~~auto-injector~~] **device**, except as provided for in subdivision five-e of section two hundred twenty-five of this chapter.

§ 3. Subdivision 2 of section 3000-a of the public health law, as amended by chapter 373 of the laws of 2016, is amended to read as follows:

2. (i) Any person or entity 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) a health care practitioner that prescribes, dispenses or provides an epinephrine [~~auto-injector~~] device under section three thousand-c of this article, 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, the emergency health care provider's, or other health care practitioner's liability for [~~his, her or its~~] **their** own negligence, gross negligence or intentional misconduct.

§ 4. Subdivision 5-e of section 225 of the public health law, as added by chapter 461 of the laws of 2024 and as renumbered by chapter 22 of the laws of 2025, is amended to read as follows:

5-e. Places of public assembly on-site epinephrine [~~auto-injector~~] devices.

(a) Notwithstanding the provisions of paragraph (r) of subdivision five of this section and section three thousand-c of this chapter, the sanitary code shall provide that each place of public assembly as speci-

fied in this section shall be required to maintain and make available on-site epinephrine [~~auto-injector~~] devices, as defined in paragraph (b) of subdivision one of section three thousand-c of this chapter, in quantities and types deemed by the commissioner to be adequate to ensure ready and appropriate access for use during emergencies.

(b) Whenever places of public assembly are used for public or private sponsored events or activities the owners, operators and administrators responsible for such place of public assembly shall ensure the presence of at least one staff person or volunteer who is trained, pursuant to paragraph (c) of subdivision two of section three thousand-c of this chapter, in the operation and use of an epinephrine [~~auto-injector~~] device.

(c) For the purposes of this subdivision, "places of public assembly" shall mean those with an occupancy capacity of at least one thousand people and shall include: (i) all stadiums, ballparks, gymnasiums, field houses, arenas, civic centers and similar facilities used for the conduct of sporting events; and (ii) concert halls, recital halls, theatres, indoor and outdoor amphitheaters or other auditoriums used for the presentation of musical renditions or concerts. Places of public assembly shall not include halls owned by churches, religious organizations, granges, public associations, or free libraries as defined by section two hundred fifty-three of the education law.

(d) Places of public assembly and staff pursuant to paragraphs (a) and (b) of this subdivision shall be subject to the requirements and limitations of section three thousand-c of this chapter.

(e) Pursuant to sections three thousand-a and three thousand-c of this chapter, any public access epinephrine [~~auto-injector~~] device provider, or any employee or other agent of the provider who, in accordance with the provisions of this section, voluntarily and without expectation of monetary compensation renders emergency medical or first aid treatment using an epinephrine [~~auto-injector~~] device which has been made available pursuant to this section, to a person who is unconscious, ill or injured, shall be liable only pursuant to section three thousand-a of this chapter.

(f) Nothing in this subdivision shall be construed to prohibit a political subdivision of the state from continuing to implement and enforce any local law or regulation related to the placement of epinephrine [~~auto-injector~~] devices in places of public assembly as defined in this subdivision, in effect prior to the effective date of this subdivision. Where a political subdivision has a local law in effect prior to the effective date of this subdivision, the provisions of this subdivision shall have no force and effect until such time as the political subdivision repeals its local law.

(g) (i) Operation 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.

(ii) Operation of an epinephrine [~~auto-injector~~] device pursuant to this section shall not constitute the unlawful practice of a profession under title eight of the education law.

§ 5. Subdivision 1 of section 902-b of the education law, as added by chapter 423 of the laws of 2014, is amended to read as follows:

1. **(a)** Licensed nurses, nurse practitioners, physician assistants, or physicians employed by schools are authorized to administer prescribed epinephrine pursuant to the scope of practice of the licensed individual under title VIII of this chapter, to pupils diagnosed by a physician or other duly authorized health care provider with an allergy who have the

written permission of a physician or other duly authorized health care provider for the administration of emergency epinephrine and written parental consent to carry and use an epinephrine [~~auto injector~~] **device** pursuant to section nine hundred sixteen-a of this article, during the school day on school property and at any school function as such terms are defined, respectively, by subdivisions one and two of section eleven of this chapter.

(b) For the purposes of this subdivision, the term "epinephrine device" shall have the same meaning as set forth in paragraph (b) of subdivision one of section three thousand-c of the public health law.

§ 6. Subdivision 1 of section 916-a of the education law, as added by chapter 423 of the laws of 2014, is amended to read as follows:

1. **(a)** The board of education or trustees of each school district and board of cooperative educational services shall allow pupils who have been diagnosed by a physician or other duly authorized health care provider with an allergy to carry and use a prescribed epinephrine [~~auto injector~~] **device** for the emergency treatment of allergic reactions during the school day on school property and at any school function as such terms are defined, respectively, by subdivisions one and two of section eleven of this chapter, with the written permission of a physician or other duly authorized health provider, and written parental consent. The written permission shall include an attestation by the physician or the health care provider confirming the following: [~~(a)~~]**(i)** the pupil's diagnosis of an allergy for which an epinephrine [~~auto injector~~] **device** is needed; and [~~(b)~~] **(ii)** that the pupil has demonstrated that [~~he or she~~] **such pupil** can self-administer the prescribed epinephrine [~~auto injector~~] **device** effectively. The written permission shall also include the circumstances which may warrant the use of the epinephrine [~~auto injector~~] **device**. A record of such consent and permission shall be maintained in the student's cumulative health record. In addition, upon the written request of a parent or person in parental relation, the board of education or trustees of a school district and board of cooperative educational services shall allow such pupils to maintain an extra epinephrine [~~auto injector~~] **device** for the emergency treatment of allergies in the care and custody of **a** licensed nurse, nurse practitioner, physician assistant, or physician employed by such district or board of cooperative educational services, and shall be readily accessible to such pupil. Nothing in this section shall require a school district or board of cooperative educational services to retain a licensed nurse, nurse practitioner, physician assistant, or physician solely for the purpose of taking custody of a spare epinephrine [~~auto injector~~] **device** for the emergency treatment of allergic reactions, or require that a licensed nurse, nurse practitioner, physician assistant, or physician be available at all times in a school building for taking custody of the epinephrine [~~auto injector~~] **device**. In addition, the epinephrine [~~auto injector~~] **device** provided by the pupil's parents or persons in parental relation will be made available to the pupil as needed in accordance with the school district's or board of cooperative educational services' policy and the orders prescribed in the written permission of the physician or other authorized health care provider.

(b) For the purposes of this subdivision, the term "epinephrine device" shall have the same meaning as set forth in paragraph (b) of subdivision one of section three thousand-c of the public health law.

§ 7. Subdivision 1 of section 921 of the education law, as amended by chapter 339 of the laws of 2021, is amended to read as follows:

1. (a) The board of education or trustees of each school district and board of cooperative educational services and nonpublic schools are authorized, but not obligated to have licensed registered professional nurses, nurse practitioners, physician assistants, and physicians train unlicensed school personnel to administer prescribed glucagon or epinephrine [~~auto-injectors~~] devices in emergency situations, where an appropriately licensed health professional is not available, to pupils who have the written permission of a physician or other duly authorized health care provider for the administration of glucagon or an emergency epinephrine [~~auto-injector~~] device, along with written parental consent, during the school day on school property and at any school function as such terms are defined, respectively, by subdivisions one and two of section eleven of this chapter. Training must be provided by a physician or other duly authorized licensed health care professional in a competent manner and must be completed in a form and manner prescribed by the commissioner in regulation.

(b) For the purposes of this subdivision, the term "epinephrine device" shall have the same meaning as set forth in paragraph (b) of subdivision one of section three thousand-c of the public health law.

§ 8. Section 921-a of the education law, as amended by chapter 200 of the laws of 2017, subdivision 3 as added by chapter 422 of the laws of 2023, is amended to read as follows:

§ 921-a. On-site epinephrine [~~auto-injector~~] device. 1. School districts, boards of cooperative educational services, county vocational education and extension boards, charter schools, and non-public elementary and secondary schools in this state may provide and maintain on-site in each instructional school facility epinephrine [~~auto-injectors~~] devices in quantities and types deemed by the commissioner, in consultation with the commissioner of health, to be adequate to ensure ready and appropriate access for use during emergencies to any student or staff having anaphylactic symptoms whether or not there is a previous history of severe allergic reaction.

2. School districts, boards of cooperative educational services, county vocational education and extension boards, charter schools, and non-public elementary and secondary schools in this state, any person employed by any such entity, or employed by a contractor of such an entity while performing services for the entity may administer epinephrine [~~auto-injectors~~] devices in the event of an emergency pursuant to the requirements of section three thousand-c of the public health law.

3. School districts, boards of cooperative educational services, county vocational education and extension boards, charter schools, and non-public elementary and secondary schools in this state that are authorized to provide and maintain epinephrine [~~auto-injectors~~] devices on-site pursuant to this section shall provide all teachers with written informational material on the use of an epinephrine [~~auto-injector~~] device that has been created and approved by the commissioner of health.

4. For the purposes of this section, the term "epinephrine device" shall have the same meaning as set forth in paragraph (b) of subdivision one of section three thousand-c of the public health law.

§ 9. Paragraph 39 of subsection (i) of section 3216 of the insurance law, as added by chapter 553 of the laws of 2024, subparagraph (A) as amended by chapter 81 of the laws of 2025, is amended to read as follows:

(39) (A) Every insurer issuing a policy of accident and health insurance delivered or issued for delivery in this state which provides major medical or similar comprehensive-type coverage and provides coverage for

prescription drugs shall include coverage for medically necessary epinephrine [~~auto-injector~~] devices for the emergency treatment of life-threatening allergic reactions. Such coverage may be subject to annual deductibles and coinsurance as may be deemed appropriate by the superintendent; provided however, the total amount that an insured is required to pay out-of-pocket for such devices shall be capped at an amount not to exceed one hundred dollars annually regardless of the insured's deductible, copayment, coinsurance or any other cost-sharing requirement. If under federal law, application of the annual cap would result in health savings account ineligibility under 26 USC 223, such coverage may be subject to the plan's annual deductible, except for with respect to items or services that are preventive care pursuant to 26 USC 223(c)(2)(C), in which case the requirements of this paragraph shall apply regardless of whether the minimum deductible under 26 USC 223 has been satisfied.

(B) For the purposes of this paragraph, "epinephrine [~~auto-injector~~] device" shall have the same meaning as provided in paragraph (b) of subdivision one of section three thousand-c of the public health law.

§ 10. Paragraph 23 of subsection (k) of section 3221 of the insurance law, as added by chapter 553 of the laws of 2024, subparagraph (A) as amended by chapter 81 of the laws of 2025, is amended to read as follows:

(23) (A) Every group or blanket policy of accident and health insurance delivered or issued for delivery in this state which provides major medical or similar comprehensive-type coverage and provides coverage for prescription drugs shall provide coverage for medically necessary epinephrine [~~auto-injector~~] devices for the emergency treatment of life-threatening allergic reactions. Such coverage may be subject to annual deductibles and coinsurance as may be deemed appropriate by the superintendent; provided however, the total amount that an insured is required to pay out-of-pocket for such devices shall be capped at an amount not to exceed one hundred dollars annually regardless of the insured's deductible, copayment, coinsurance or any other cost-sharing requirement. If under federal law, application of the annual cap would result in health savings account ineligibility under 26 USC 223, such coverage may be subject to the plan's annual deductible, except for with respect to items or services that are preventive care pursuant to 26 USC 223(c)(2)(C), in which case the requirements of this paragraph shall apply regardless of whether the minimum deductible under 26 USC 223 has been satisfied.

(B) For the purposes of this paragraph, "epinephrine [~~auto-injector~~] device" shall have the same meaning as provided in paragraph (b) of subdivision one of section three thousand-c of the public health law.

§ 11. Subsection (vv) of section 4303 of the insurance law, as added by chapter 553 of the laws of 2024, subparagraph 1 as amended by chapter 81 of the laws of 2025, is amended to read as follows:

(vv) (1) Every medical expense indemnity corporation, hospital service corporation and health service corporation which provides major medical or similar comprehensive-type coverage and provides coverage for prescription drugs shall provide coverage for medically necessary epinephrine [~~auto-injector~~] devices for the emergency treatment of life-threatening allergic reactions. Such coverage may be subject to annual deductibles and coinsurance as may be deemed appropriate by the superintendent; provided however, the total amount that an insured is required to pay out-of-pocket for such devices shall be capped at an amount not to exceed one hundred dollars annually regardless of the

insured's deductible, copayment, coinsurance or any other cost-sharing requirement. If under federal law, application of the annual cap would result in health savings account ineligibility under 26 USC 223, such coverage may be subject to the plan's annual deductible, except for with respect to items or services that are preventive care pursuant to 26 USC 223(c)(2)(C), in which case the requirements of this paragraph shall apply regardless of whether the minimum deductible under 26 USC 223 has been satisfied.

(2) For the purposes of this subsection, "epinephrine [~~auto-injector~~] device" shall have the same meaning as provided in paragraph (b) of subdivision one of section three thousand-c of the public health law.

§ 12. This act shall take effect immediately; provided, however, that sections two and four of this act shall take effect on the same date and in the same manner as chapter 461 of the laws of 2024, as amended, takes effect; provided further that sections nine, ten and eleven of this act shall take effect on the same date and in the same manner as chapter 553 of the laws of 2024 takes effect.