

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:

1 Section 1. Section 3000-c of the public health law, as amended by
2 chapter 373 of the laws of 2016, paragraph (a) of subdivision 1 as
3 amended by chapter 472 of the laws of 2024, and paragraph (f) of subdi-
4 vision 2 as amended by chapter 373 of the laws of 2016, is amended to
5 read as follows:
6 § 3000-c. Epinephrine [~~auto-injector~~] devices. 1. Definitions. As used
7 in this section:
8 (a) "Eligible person or entity" means: (i) an ambulance service or
9 advanced life support first response service; a certified first respon-
10 der, firefighter in a county, city, town or village having a population
11 of less than two million provided such county is not wholly located
12 within a city with a population of more than one million, emergency
13 medical technician, or advanced emergency medical technician, who is
14 employed by or an enrolled member of any such service; (ii) a children's
15 overnight camp as defined in subdivision one of section thirteen hundred
16 ninety-two of this chapter, a summer day camp as defined in subdivision
17 two of section thirteen hundred ninety-two of this chapter, a traveling
18 summer day camp as defined in subdivision three of section thirteen
19 hundred ninety-two of this chapter or a person employed by such a camp;
20 (iii) a school district, board of cooperative educational services,
21 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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1 non-public elementary and secondary school in this state or any person
2 employed by any such entity, or employed by a contractor of such an
3 entity while performing services for the entity; (iv) a sports, enter-
4 tainment, amusement, education, government, day care or retail facility;
5 an educational institution, youth organization or sports league; an
6 establishment that serves food; or a person employed by such entity; (v)
7 a police officer or peace officer in a county, city, town or village
8 having a population of less than two million provided such county is not
9 wholly located within a city with a population of more than one million;
10 (vi) forest rangers, park rangers and environmental conservation police
11 officers; and (vii) any other person or entity designated or approved,
12 or in a category designated or approved pursuant to regulations of the
13 commissioner in consultation with other appropriate agencies.

14 (b) "Epinephrine [~~auto-injector~~] device" means [~~a single-use~~] an
15 epinephrine delivery device or product approved by the federal food and
16 drug administration and used for the automatic injection or adminis-
17 tration of a premeasured dose of epinephrine into the human body for the
18 purpose of emergency treatment of a person appearing to experience
19 anaphylactic symptoms approved by the food and drug administration.

20 (c) "Health care practitioner" means a health care practitioner
21 licensed, certified, or authorized to practice under title eight of the
22 education law who is authorized thereby to administer drugs, and who is
23 acting within the scope of [~~his or her~~] such health care practitioner's
24 practice.

25 2. Possession and use. (a) Any eligible person or entity may purchase,
26 acquire, possess and use epinephrine [~~auto-injector~~] devices for emer-
27 gency treatment of a person appearing to experience anaphylactic symp-
28 toms, under this section.

29 (b) An eligible person or entity shall designate one or more individ-
30 uals who have completed the training required by paragraph (c) of this
31 subdivision to be responsible for the storage, maintenance, control, and
32 general oversight of the epinephrine [~~auto-injectors~~] devices acquired
33 by the eligible person or entity.

34 (c) No one may use an epinephrine [~~auto-injector~~] device on behalf of
35 an eligible person or entity unless [~~he or she has~~] they have success-
36 fully completed a training course in the use of epinephrine [~~auto-injec-~~
37 ~~tor~~] devices conducted by a nationally recognized organization experi-
38 enced in training laypersons in emergency health treatment or by an
39 entity or individual approved by the commissioner, or is directed in a
40 specific instance to use an epinephrine [~~auto-injector~~] device by a
41 health care practitioner. The training required by this paragraph shall
42 include (i) how to recognize signs and symptoms of severe allergic
43 reactions, including anaphylaxis; (ii) recommended dosage for adults and
44 children; (iii) standards and procedures for the storage and adminis-
45 tration of an epinephrine [~~auto-injector~~] device; and (iv) emergency
46 follow-up procedures.

47 (d) This section does not prohibit the use of an epinephrine [~~auto-in-~~
48 ~~jector~~] device (i) by a health care practitioner or (ii) by a person
49 acting pursuant to a lawful patient-specific prescription.

50 (e) Every eligible person and entity authorized to possess and use
51 epinephrine [~~auto-injector~~] devices pursuant to this section shall use,
52 maintain and dispose of such devices pursuant to regulations of the
53 department.

54 (f) Nothing in this section shall require any eligible person or enti-
55 ty to acquire, possess, store, make available, or administer an epineph-
56 rine [~~auto-injector~~] device.

1 3. Prescriptions. (a) A health care practitioner who is authorized to
2 prescribe drugs may prescribe, dispense or provide an epinephrine [~~auto-~~
3 ~~injector~~] device to or for an eligible person or entity by a non-pa-
4 tient-specific prescription.

5 (b) A pharmacist may dispense an epinephrine [~~auto-injector~~] **device**
6 pursuant to a non-patient-specific prescription under this subdivision.

7 (c) This subdivision does not limit any other authority a health care
8 practitioner or pharmacist has to prescribe, dispense, provide or admin-
9 ister an epinephrine [~~auto-injector~~] device.

10 4. Application of other laws. (a) Use of an epinephrine [~~auto-injec-~~
11 ~~tor~~] device pursuant to this section shall be considered first aid or
12 emergency treatment for the purpose of any statute relating to liabil-
13 ity.

14 (b) Purchase, acquisition, possession or use of an epinephrine [~~auto-~~
15 ~~injector~~] device pursuant to this section shall not constitute the
16 unlawful practice of a profession or other violation under title eight
17 of the education law or article thirty-three of this chapter.

18 (c) Any person otherwise authorized to sell or provide an epinephrine
19 [~~auto-injector~~] device may sell or provide it to a person or entity
20 authorized to possess it pursuant to this section.

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

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

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

31 2. (i) Any person or entity that purchases, operates, facilitates
32 implementation or makes available resuscitation equipment that facili-
33 tates first aid, an automated external defibrillator or an epinephrine
34 [~~auto-injector~~] device as required by or pursuant to law or local law,
35 or that conducts training under section three thousand-c of this arti-
36 cle, or (ii) an emergency health care provider under a collaborative
37 agreement pursuant to section three thousand-b of this article with
38 respect to an automated external defibrillator, or (iii) a health care
39 practitioner that prescribes, dispenses or provides an epinephrine
40 [~~auto-injector~~] device under section three thousand-c of this article,
41 shall not be liable for damages arising either from the use of that
42 equipment by a person who voluntarily and without expectation of mone-
43 tary compensation renders first aid or emergency treatment at the scene
44 of an accident or medical emergency, or from the use of defectively
45 manufactured equipment; provided that this subdivision shall not limit
46 the person's or entity's, the emergency health care provider's, or other
47 health care practitioner's liability for [~~his, her or its~~] **their** own
48 negligence, gross negligence or intentional misconduct.

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

52 5-e. Places of public assembly on-site epinephrine [~~auto-injector~~]
53 devices.

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

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

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

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

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

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

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

44 (g) (i) Operation of an epinephrine [~~auto-injector~~] device pursuant to
45 this section shall be considered first aid or emergency treatment for
46 the purpose of any statute relating to liability.

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

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

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

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

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

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

13 1. (a) The board of education or trustees of each school district and
14 board of cooperative educational services shall allow pupils who have
15 been diagnosed by a physician or other duly authorized health care
16 provider with an allergy to carry and use a prescribed epinephrine [~~auto~~
17 ~~injector~~] device for the emergency treatment of allergic reactions
18 during the school day on school property and at any school function as
19 such terms are defined, respectively, by subdivisions one and two of
20 section eleven of this chapter, with the written permission of a physi-
21 cian or other duly authorized health provider, and written parental
22 consent. The written permission shall include an attestation by the
23 physician or the health care provider confirming the following: [~~(a)~~] (i)
24 the pupil's diagnosis of an allergy for which an epinephrine [~~auto~~
25 ~~injector~~] device is needed; and [~~(b)~~] (ii) that the pupil has demon-
26 strated that [~~he or she~~] such pupil can self-administer the prescribed
27 epinephrine [~~auto-injector~~] device effectively. The written permission
28 shall also include the circumstances which may warrant the use of the
29 epinephrine [~~auto-injector~~] device. A record of such consent and
30 permission shall be maintained in the student's cumulative health
31 record. In addition, upon the written request of a parent or person in
32 parental relation, the board of education or trustees of a school
33 district and board of cooperative educational services shall allow such
34 pupils to maintain an extra epinephrine [~~auto-injector~~] device for the
35 emergency treatment of allergies in the care and custody of a licensed
36 nurse, nurse practitioner, physician assistant, or physician employed by
37 such district or board of cooperative educational services, and shall be
38 readily accessible to such pupil. Nothing in this section shall require
39 a school district or board of cooperative educational services to retain
40 a licensed nurse, nurse practitioner, physician assistant, or physician
41 solely for the purpose of taking custody of a spare epinephrine [~~auto~~
42 ~~injector~~] device for the emergency treatment of allergic reactions, or
43 require that a licensed nurse, nurse practitioner, physician assistant,
44 or physician be available at all times in a school building for taking
45 custody of the epinephrine [~~auto-injector~~] device. In addition, the
46 epinephrine [~~auto-injector~~] device provided by the pupil's parents or
47 persons in parental relation will be made available to the pupil as
48 needed in accordance with the school district's or board of cooperative
49 educational services' policy and the orders prescribed in the written
50 permission of the physician or other authorized health care provider.

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

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

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

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

20 § 8. Section 921-a of the education law, as amended by chapter 200 of
21 the laws of 2017, subdivision 3 as added by chapter 422 of the laws of
22 2023, is amended to read as follows:

23 § 921-a. On-site epinephrine [~~auto-injector~~] device. 1. School
24 districts, boards of cooperative educational services, county vocational
25 education and extension boards, charter schools, and non-public elemen-
26 tary and secondary schools in this state may provide and maintain
27 on-site in each instructional school facility epinephrine [~~auto-injee-~~
28 ~~ters~~] devices in quantities and types deemed by the commissioner, in
29 consultation with the commissioner of health, to be adequate to ensure
30 ready and appropriate access for use during emergencies to any student
31 or staff having anaphylactic symptoms whether or not there is a previous
32 history of severe allergic reaction.

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

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

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

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

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

1 prescription drugs shall include coverage for medically necessary
2 epinephrine [~~auto-injector~~] devices for the emergency treatment of life-
3 threatening allergic reactions. Such coverage may be subject to annual
4 deductibles and coinsurance as may be deemed appropriate by the super-
5 intendent; provided however, the total amount that an insured is
6 required to pay out-of-pocket for such devices shall be capped at an
7 amount not to exceed one hundred dollars annually regardless of the
8 insured's deductible, copayment, coinsurance or any other cost-sharing
9 requirement. If under federal law, application of the annual cap would
10 result in health savings account ineligibility under 26 USC 223, such
11 coverage may be subject to the plan's annual deductible, except for with
12 respect to items or services that are preventive care pursuant to 26 USC
13 223(c)(2)(C), in which case the requirements of this paragraph shall
14 apply regardless of whether the minimum deductible under 26 USC 223 has
15 been satisfied.

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

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

23 (23) (A) Every group or blanket policy of accident and health insur-
24 ance delivered or issued for delivery in this state which provides major
25 medical or similar comprehensive-type coverage and provides coverage for
26 prescription drugs shall provide coverage for medically necessary
27 epinephrine [~~auto-injector~~] devices for the emergency treatment of life-
28 threatening allergic reactions. Such coverage may be subject to annual
29 deductibles and coinsurance as may be deemed appropriate by the super-
30 intendent; provided however, the total amount that an insured is
31 required to pay out-of-pocket for such devices shall be capped at an
32 amount not to exceed one hundred dollars annually regardless of the
33 insured's deductible, copayment, coinsurance or any other cost-sharing
34 requirement. If under federal law, application of the annual cap would
35 result in health savings account ineligibility under 26 USC 223, such
36 coverage may be subject to the plan's annual deductible, except for with
37 respect to items or services that are preventive care pursuant to 26 USC
38 223(c)(2)(C), in which case the requirements of this paragraph shall
39 apply regardless of whether the minimum deductible under 26 USC 223 has
40 been satisfied.

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

44 § 11. Subsection (vv) of section 4303 of the insurance law, as added
45 by chapter 553 of the laws of 2024, subparagraph 1 as amended by chapter
46 81 of the laws of 2025, is amended to read as follows:

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

1 insured's deductible, copayment, coinsurance or any other cost-sharing
2 requirement. If under federal law, application of the annual cap would
3 result in health savings account ineligibility under 26 USC 223, such
4 coverage may be subject to the plan's annual deductible, except for with
5 respect to items or services that are preventive care pursuant to 26 USC
6 223(c)(2)(C), in which case the requirements of this paragraph shall
7 apply regardless of whether the minimum deductible under 26 USC 223 has
8 been satisfied.

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

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