

SUBSTITUTE FOR
HOUSE BILL NO. 5668

A bill to amend 1978 PA 368, entitled
"Public health code,"
by amending section 17744a (MCL 333.17744a), as added by 2013 PA
186, and by adding section 17744c.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 17744a. (1) Notwithstanding any provision of this act to
2 the contrary, a prescriber may issue a prescription for and a
3 dispensing prescriber or pharmacist may dispense auto-injectable
4 epinephrine to ~~a school board for the purpose of meeting the~~
5 ~~requirements of section 1179a of the revised school code, 1976 PA~~
6 ~~451, MCL 380.1179a.~~ **AN AUTHORIZED ENTITY.** When issuing a
7 prescription for or dispensing auto-injectable epinephrine to a
8 ~~school board~~ **AN AUTHORIZED ENTITY** as authorized under this section,
9 the prescriber, dispensing prescriber, or pharmacist, as

1 appropriate, shall insert the name of the ~~school board~~ **AUTHORIZED**
2 **ENTITY** as the name of the patient.

3 (2) A school employee who is a licensed registered
4 professional nurse or who is trained in the administration of an
5 epinephrine auto-injector under section 1179a of the revised school
6 code, 1976 PA 451, MCL 380.1179a, may possess and administer an
7 epinephrine auto-injector dispensed to a school board under this
8 section.

9 (3) **AN AUTHORIZED ENTITY THAT IS NOT A SCHOOL BOARD MAY**
10 **ACQUIRE AND STOCK A SUPPLY OF AUTO-INJECTABLE EPINEPHRINE UNDER A**
11 **PRESCRIPTION AS AUTHORIZED IN THIS SECTION. AN AUTHORIZED ENTITY**
12 **DESCRIBED IN THIS SUBSECTION THAT ACQUIRES AND STOCKS A SUPPLY OF**
13 **AUTO-INJECTABLE EPINEPHRINE IS SUBJECT TO SECTION 17744C.**

14 (4) ~~(2)~~ A prescriber who issues a prescription for or a
15 dispensing prescriber or pharmacist who dispenses auto-injectable
16 epinephrine to ~~a school board~~ **AN AUTHORIZED ENTITY** as authorized
17 under this section is not liable in a civil action for a properly
18 stored and dispensed epinephrine auto-injector that was a proximate
19 cause of injury or death to an individual due to the administration
20 of or failure to administer the epinephrine auto-injector.

21 (5) **AS USED IN THIS SECTION, "AUTHORIZED ENTITY" MEANS ANY OF**
22 **THE FOLLOWING:**

23 (A) **A SCHOOL BOARD FOR THE PURPOSE OF MEETING THE REQUIREMENTS**
24 **OF SECTION 1179A OF THE REVISED SCHOOL CODE, 1976 PA 451, MCL**
25 **380.1179A.**

26 (B) **A PERSON OR GOVERNMENTAL ENTITY THAT OPERATES OR CONDUCTS**
27 **A BUSINESS OR ACTIVITY AT WHICH ALLERGENS CAPABLE OF CAUSING**

1 ANAPHYLAXIS MAY BE PRESENT, INCLUDING, BUT NOT LIMITED TO, A
2 RESTAURANT, RECREATION CAMP, YOUTH SPORTS LEAGUE, AMUSEMENT PARK,
3 OR SPORTS ARENA.

4 SEC. 17744C. (1) THIS SECTION ONLY APPLIES TO AN AUTHORIZED
5 ENTITY AS DEFINED IN SECTION 17744A(5) (B) THAT ACQUIRES AND STOCKS
6 A SUPPLY OF AUTO-INJECTABLE EPINEPHRINE AS AUTHORIZED IN SECTION
7 17744A. AN AUTHORIZED ENTITY SHALL STORE AUTO-INJECTABLE
8 EPINEPHRINE IN A LOCATION READILY ACCESSIBLE IN AN EMERGENCY AND IN
9 ACCORDANCE WITH THE AUTO-INJECTABLE EPINEPHRINE'S INSTRUCTIONS FOR
10 USE AND ANY ADDITIONAL REQUIREMENTS THAT ARE ESTABLISHED BY THE
11 DEPARTMENT. AN AUTHORIZED ENTITY SHALL DESIGNATE AN EMPLOYEE OR
12 AGENT WHO HAS COMPLETED THE TRAINING REQUIRED UNDER THIS SECTION TO
13 BE RESPONSIBLE FOR THE STORAGE, MAINTENANCE, AND GENERAL OVERSIGHT
14 OF THE AUTO-INJECTABLE EPINEPHRINE ACQUIRED BY THE AUTHORIZED
15 ENTITY.

16 (2) AN EMPLOYEE OR AGENT OF AN AUTHORIZED ENTITY OR OTHER
17 INDIVIDUAL, WHICH EMPLOYEE, AGENT, OR INDIVIDUAL HAS COMPLETED THE
18 TRAINING REQUIRED UNDER THIS SECTION, MAY, ON THE PREMISES OF OR IN
19 CONNECTION WITH THE CONDUCT OF THE BUSINESS OR ACTIVITY OF THE
20 AUTHORIZED ENTITY, USE AUTO-INJECTABLE EPINEPHRINE PRESCRIBED UNDER
21 SECTION 17744A TO DO ANY OF THE FOLLOWING:

22 (A) PROVIDE AUTO-INJECTABLE EPINEPHRINE TO AN INDIVIDUAL WHO
23 THE EMPLOYEE, AGENT, OR OTHER INDIVIDUAL BELIEVES IN GOOD FAITH IS
24 EXPERIENCING ANAPHYLAXIS FOR IMMEDIATE SELF-ADMINISTRATION,
25 REGARDLESS OF WHETHER THE INDIVIDUAL HAS A PRESCRIPTION FOR AUTO-
26 INJECTABLE EPINEPHRINE OR HAS PREVIOUSLY BEEN DIAGNOSED WITH AN
27 ALLERGY.

1 (B) ADMINISTER AUTO-INJECTABLE EPINEPHRINE TO AN INDIVIDUAL
2 WHO THE EMPLOYEE, AGENT, OR OTHER INDIVIDUAL BELIEVES IN GOOD FAITH
3 IS EXPERIENCING ANAPHYLAXIS, REGARDLESS OF WHETHER THE INDIVIDUAL
4 HAS A PRESCRIPTION FOR AUTO-INJECTABLE EPINEPHRINE OR HAS
5 PREVIOUSLY BEEN DIAGNOSED WITH AN ALLERGY.

6 (3) BEFORE PROVIDING OR ADMINISTERING AUTO-INJECTABLE
7 EPINEPHRINE MADE AVAILABLE BY AN AUTHORIZED ENTITY, AN EMPLOYEE,
8 AGENT, OR OTHER INDIVIDUAL DESCRIBED IN SUBSECTION (2) MUST
9 COMPLETE AN INITIAL ANAPHYLAXIS TRAINING PROGRAM AND A SUBSEQUENT
10 ANAPHYLAXIS TRAINING PROGRAM AT LEAST EVERY 2 YEARS FOLLOWING
11 COMPLETION OF THE MOST RECENTLY COMPLETED ANAPHYLAXIS TRAINING
12 PROGRAM THAT MEETS ALL OF THE FOLLOWING REQUIREMENTS:

13 (A) IS CONDUCTED BY A NATIONALLY RECOGNIZED ORGANIZATION
14 EXPERIENCED IN TRAINING LAYPERSONS IN EMERGENCY HEALTH TREATMENT OR
15 BY A PERSON APPROVED BY THE DEPARTMENT.

16 (B) IS CONDUCTED ONLINE OR IN PERSON.

17 (C) AT A MINIMUM, COVERS ALL OF THE FOLLOWING:

18 (i) TECHNIQUES ON HOW TO RECOGNIZE SYMPTOMS OF SEVERE ALLERGIC
19 REACTIONS, INCLUDING ANAPHYLAXIS.

20 (ii) STANDARDS AND PROCEDURES FOR THE STORAGE AND
21 ADMINISTRATION OF AUTO-INJECTABLE EPINEPHRINE.

22 (iii) EMERGENCY FOLLOW-UP PROCEDURES.

23 (4) AN ORGANIZATION OR PERSON THAT CONDUCTS AN ANAPHYLAXIS
24 TRAINING PROGRAM DESCRIBED IN SUBSECTION (3) SHALL ISSUE A
25 CERTIFICATE, ON A FORM DEVELOPED OR APPROVED BY THE DEPARTMENT, TO
26 EACH INDIVIDUAL WHO SUCCESSFULLY COMPLETES THE ANAPHYLAXIS TRAINING
27 PROGRAM.

1 (5) EXCEPT AS OTHERWISE PROVIDED IN THIS SUBSECTION, AN
2 AUTHORIZED ENTITY AND ITS EMPLOYEES, AGENTS, AND OTHER TRAINED
3 INDIVIDUALS THAT HAVE ACTED IN ACCORDANCE WITH THE REQUIREMENTS OF
4 SUBSECTIONS (1) TO (4); AN INDIVIDUAL WHO USES AUTO-INJECTABLE
5 EPINEPHRINE OBTAINED IN ACCORDANCE WITH THE REQUIREMENTS OF
6 SUBSECTIONS (1) TO (4) AND MADE AVAILABLE UNDER SUBSECTION (7); OR
7 A PERSON THAT CONDUCTS AN ANAPHYLAXIS TRAINING PROGRAM DESCRIBED IN
8 AND CONDUCTED IN ACCORDANCE WITH THE REQUIREMENTS OF SUBSECTION (3)
9 IS NOT LIABLE FOR ANY INJURIES OR RELATED DAMAGES THAT RESULT FROM
10 THE ADMINISTRATION OR SELF-ADMINISTRATION OF AUTO-INJECTABLE
11 EPINEPHRINE, THE FAILURE TO ADMINISTER AUTO-INJECTABLE EPINEPHRINE,
12 OR ANY OTHER ACT OR OMISSION TAKEN PURSUANT TO THIS SECTION. THIS
13 SUBSECTION DOES NOT APPLY TO ACTS OR OMISSIONS THAT CONSTITUTE
14 WILLFUL MISCONDUCT OR WANTON MISCONDUCT. THE ADMINISTRATION OF
15 AUTO-INJECTABLE EPINEPHRINE AS AUTHORIZED IN THIS SECTION IS NOT
16 THE PRACTICE OF MEDICINE. THIS SECTION DOES NOT ELIMINATE, LIMIT,
17 OR REDUCE ANY OTHER IMMUNITY OR DEFENSE THAT MAY BE AVAILABLE UNDER
18 THE LAWS OF THIS STATE. AN AUTHORIZED ENTITY LOCATED IN THIS STATE
19 IS NOT LIABLE FOR ANY INJURIES OR RELATED DAMAGES THAT RESULT FROM
20 THE PROVISION OR ADMINISTRATION OF AUTO-INJECTABLE EPINEPHRINE BY
21 ITS EMPLOYEES OR AGENTS OUTSIDE OF THIS STATE IF EITHER OF THE
22 FOLLOWING REQUIREMENTS IS MET:

23 (A) THE AUTHORIZED ENTITY OR ITS EMPLOYEE OR AGENT WOULD NOT
24 HAVE BEEN LIABLE FOR THE INJURIES OR RELATED DAMAGES HAD THE
25 PROVISION OR ADMINISTRATION OCCURRED IN THIS STATE.

26 (B) THE AUTHORIZED ENTITY OR ITS EMPLOYEE OR AGENT IS NOT
27 LIABLE FOR THE INJURIES OR RELATED DAMAGES UNDER THE LAW OF THE

1 STATE IN WHICH THE PROVISION OR ADMINISTRATION OCCURRED.

2 (6) AN AUTHORIZED ENTITY SHALL SUBMIT TO THE DEPARTMENT, ON A
3 FORM PRESCRIBED BY THE DEPARTMENT, A REPORT OF EACH INCIDENT ON THE
4 PREMISES OF OR IN CONNECTION WITH THE CONDUCT OF THE BUSINESS OR
5 ACTIVITY OF THE AUTHORIZED ENTITY THAT INVOLVES THE ADMINISTRATION
6 OF AUTO-INJECTABLE EPINEPHRINE. THE DEPARTMENT SHALL ANNUALLY
7 PUBLISH A REPORT THAT SUMMARIZES AND ANALYZES ALL REPORTS SUBMITTED
8 TO IT UNDER THIS SUBSECTION.

9 (7) AN AUTHORIZED ENTITY MAY MAKE AUTO-INJECTABLE EPINEPHRINE
10 AVAILABLE TO INDIVIDUALS OTHER THAN EMPLOYEES, AGENTS, OR
11 INDIVIDUALS DESCRIBED IN SUBSECTION (2), AND THE OTHER INDIVIDUALS
12 MAY ADMINISTER AUTO-INJECTABLE EPINEPHRINE TO ANY INDIVIDUAL
13 BELIEVED IN GOOD FAITH TO BE EXPERIENCING ANAPHYLAXIS, IF THE AUTO-
14 INJECTABLE EPINEPHRINE IS STORED IN A LOCKED, SECURE CONTAINER AND
15 IS MADE AVAILABLE ONLY UPON REMOTE AUTHORIZATION BY AN AUTHORIZED
16 HEALTH CARE PROVIDER AFTER CONSULTATION WITH THE AUTHORIZED HEALTH
17 CARE PROVIDER BY AUDIO, TELEVIDEO, OR OTHER SIMILAR MEANS OF
18 ELECTRONIC COMMUNICATION. CONSULTATION WITH AN AUTHORIZED HEALTH
19 CARE PROVIDER FOR THE PURPOSE OF THIS SUBSECTION IS NOT THE
20 PRACTICE OF TELEMEDICINE AND DOES NOT VIOLATE ANY LAW OR RULE
21 REGULATING THE AUTHORIZED HEALTH CARE PROVIDER'S PROFESSIONAL
22 PRACTICE. AS USED IN THIS SUBSECTION, "AUTHORIZED HEALTH CARE
23 PROVIDER" MEANS A PRESCRIBER AS THAT TERM IS DEFINED IN SECTION
24 17708 OTHER THAN A LICENSED DENTIST, LICENSED OPTOMETRIST, OR
25 LICENSED VETERINARIAN.