

**SUBSTITUTE FOR
SENATE BILL NO. 417**

A bill to amend 1978 PA 368, entitled
"Public health code,"
by amending sections 17744a and 17744d (MCL 333.17744a and
333.17744d), section 17744a as amended and section 17744d as added
by 2015 PA 221.

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 an authorized entity. When issuing a prescription
5 for or dispensing auto-injectable epinephrine to an authorized
6 entity as authorized under this section, the prescriber, dispensing
7 prescriber, or pharmacist, as appropriate, shall insert the name of



1 the authorized entity as the name of the patient.

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

8 (3) An authorized entity ~~that is not a school board~~ **as defined**
9 **in subsection (6) (b)** may acquire and stock a supply of auto-
10 injectable epinephrine under a prescription as authorized in this
11 section. An authorized entity ~~described as defined~~ in this
12 subsection **(6) (b)** that acquires and stocks a supply of auto-
13 injectable epinephrine is subject to section 17744d.

14 (4) **A law enforcement officer or firefighter of an authorized**
15 **entity as defined in subsection (6) (c) may, subject to section 2 of**
16 **the law enforcement and firefighter access to epinephrine act,**
17 **possess and administer auto-injectable epinephrine dispensed to the**
18 **entity under this section.**

19 (5) ~~(4)~~—A prescriber who issues a prescription for or a
20 dispensing prescriber or pharmacist who dispenses auto-injectable
21 epinephrine to an authorized entity as authorized under this
22 section is not liable in a civil action for a properly stored and
23 dispensed epinephrine auto-injector that was a proximate cause of
24 injury or death to an individual due to the administration of or
25 failure to administer the epinephrine auto-injector.

26 (6) ~~(5)~~—As used in this section, "authorized entity" means any
27 of the following:

28 (a) A school board for the purpose of meeting the requirements
29 of section 1179a of the revised school code, 1976 PA 451, MCL



1 380.1179a.

2 (b) A person or governmental entity that operates or conducts
3 a business or activity at which allergens capable of causing
4 anaphylaxis may be present, including, but not limited to, a
5 recreation camp, youth sports league, amusement park, nonpublic
6 school, religious institution, or sports arena.

7 **(c) An eligible entity authorized to purchase, possess, and**
8 **distribute auto-injectable epinephrine under the law enforcement**
9 **and firefighter access to epinephrine act.**

10 Sec. 17744d. (1) This section only applies to an authorized
11 entity as defined in section ~~17744a(5)(b)~~**17744a(6)(b)** that
12 acquires and stocks a supply of auto-injectable epinephrine as
13 authorized in section 17744a. An authorized entity shall store
14 auto-injectable epinephrine in a location readily accessible in an
15 emergency and in accordance with the auto-injectable epinephrine's
16 instructions for use and any additional requirements that are
17 established by the department. An authorized entity shall designate
18 an employee or agent who has completed the training required under
19 this section to be responsible for the storage, maintenance, and
20 general oversight of the auto-injectable epinephrine acquired by
21 the authorized entity.

22 (2) An employee or agent of an authorized entity or other
23 individual, which employee, agent, or individual has completed the
24 training required under this section, may, on the premises of or in
25 connection with the conduct of the business or activity of the
26 authorized entity, use auto-injectable epinephrine prescribed under
27 section 17744a to do any of the following:

28 (a) Provide auto-injectable epinephrine to an individual who
29 the employee, agent, or other individual believes in good faith is



1 experiencing anaphylaxis for immediate self-administration,
2 regardless of whether the individual has a prescription for auto-
3 injectable epinephrine or has previously been diagnosed with an
4 allergy.

5 (b) Administer auto-injectable epinephrine to an individual
6 who the employee, agent, or other individual believes in good faith
7 is experiencing anaphylaxis, regardless of whether the individual
8 has a prescription for auto-injectable epinephrine or has
9 previously been diagnosed with an allergy.

10 (3) Before providing or administering auto-injectable
11 epinephrine made available by an authorized entity, an employee,
12 agent, or other individual described in subsection (2) must
13 complete an initial anaphylaxis training program and a subsequent
14 anaphylaxis training program at least every 2 years following
15 completion of the most recently completed anaphylaxis training
16 program that meets all of the following requirements:

17 (a) Is conducted by a nationally recognized organization
18 experienced in training laypersons in emergency health treatment or
19 by a person, entity, or class of individuals approved by the
20 department.

21 (b) Is conducted online or in person.

22 (c) At a minimum, covers all of the following:

23 (i) Techniques on how to recognize symptoms of severe allergic
24 reactions, including anaphylaxis.

25 (ii) Standards and procedures for the storage and
26 administration of auto-injectable epinephrine.

27 (iii) Emergency follow-up procedures.

28 (4) An organization, person, entity, or class of individuals
29 that conducts an anaphylaxis training program described in



1 subsection (3) shall issue a certificate, on a form developed or
 2 approved by the department, to each individual who successfully
 3 completes the anaphylaxis training program.

4 (5) Except as otherwise provided in this ~~subsection, section,~~
 5 an authorized entity and its employees, agents, and other trained
 6 individuals that have acted in accordance with the requirements of
 7 subsections (1) to (4); an individual who uses auto-injectable
 8 epinephrine obtained in accordance with the requirements of
 9 subsections (1) to (4) and made available under subsection ~~(7);~~
 10 **(10)**; or an organization, person, entity, or class of individuals
 11 that conducts an anaphylaxis training program described in and
 12 conducted in accordance with subsection (3), is not ~~liable~~**subject**
 13 **to any of the following:**

14 (a) **For an authorized entity or person other than an**
 15 **individual described in this subsection, civil liability** for ~~any~~
 16 ~~injuries~~**injury, death, or related** damages that result from the
 17 administration or self-administration of auto-injectable
 18 epinephrine, the failure to administer auto-injectable epinephrine,
 19 or any other act or omission taken pursuant to this section, ~~This~~
 20 ~~subsection does not apply to acts or omissions that~~**if the conduct**
 21 **does not** constitute ~~willful misconduct or wanton misconduct.~~**gross**
 22 **negligence as that term is defined in section 7 of 1964 PA 170, MCL**
 23 **691.1407, that is the proximate cause of the injury, death, or**
 24 **damages.**

25 (b) **For an individual described in this subsection, civil**
 26 **liability for injury, death, or damages that result from the**
 27 **administration or self-administration of auto-injectable**
 28 **epinephrine, the failure to administer auto-injectable epinephrine,**
 29 **or any other act or omission taken pursuant to this section, if the**



1 conduct does not constitute willful or wanton misconduct that is
2 the proximate cause of the injury, death, or damages.

3 (c) For an authorized entity or person including an individual
4 described in this subsection, criminal prosecution for purchasing,
5 possessing, or distributing auto-injectable epinephrine, the
6 administration or self-administration of auto-injectable
7 epinephrine, the failure to administer auto-injectable epinephrine,
8 or any other act or omission taken pursuant to this section.

9 (6) The administration of auto-injectable epinephrine as
10 authorized in this section is not the practice of medicine.

11 (7) This section does not eliminate, limit, or reduce any
12 other immunity or defense that may be available under the laws of
13 this state.

14 (8) An authorized entity located in this state is not **civilly**
15 liable for any injuries or related damages that result from
16 providing or administering auto-injectable epinephrine by its
17 employees or agents outside of this state if either of the
18 following requirements is met:

19 (a) The authorized entity or its employee or agent would not
20 have been **civilly** liable for the injuries or related damages had
21 the provision or administration occurred in this state.

22 (b) The authorized entity or its employee or agent is not
23 **civilly** liable for the injuries or related damages under the law of
24 the state in which the provision or administration occurred.

25 (9) ~~(6)~~—An authorized entity shall submit to the department,
26 on a form prescribed by the department, a report of each incident
27 on the premises of or in connection with the conduct of the
28 business or activity of the authorized entity that involves the
29 administration of auto-injectable epinephrine. The department shall



1 annually publish a report that summarizes and analyzes all reports
2 submitted to it under this subsection.

3 (10) ~~(7)~~—An authorized entity may make auto-injectable
4 epinephrine available to an individual other than an employee,
5 agent, or individual described in subsection (2), and the other
6 individual may administer auto-injectable epinephrine to any
7 individual he or she believes in good faith to be experiencing
8 anaphylaxis, if the auto-injectable epinephrine is stored in a
9 locked, secure container and is made available only upon remote
10 authorization by an authorized health care provider after
11 consultation with the authorized health care provider by audio,
12 televideo, or other similar means of electronic communication.
13 Consultation with an authorized health care provider for the
14 purpose of this subsection is not the practice of telemedicine and
15 does not violate any law or rule regulating the authorized health
16 care provider's scope of practice. As used in this subsection,
17 "authorized health care provider" means a prescriber as that term
18 is defined in section 17708 other than a licensed dentist, licensed
19 optometrist, or licensed veterinarian.

20 Enacting section 1. This amendatory act does not take effect
21 unless Senate Bill No. 418 of the 100th Legislature is enacted into
22 law.

