

HOUSE BILL No. 5881

September 15, 2016, Introduced by Rep. Lyons and referred to the Committee on Health Policy.

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

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 17744d. (1) ~~This section only applies to an authorized~~
2 ~~entity as defined in section 17744a(5)(b) that acquires and stocks~~
3 ~~a supply of auto-injectable epinephrine as authorized in section~~
4 ~~17744a.~~ An authorized entity shall store auto-injectable
5 epinephrine in a location readily accessible in an emergency and in
6 accordance with the auto-injectable epinephrine's instructions for
7 use and any additional requirements that are established by the

1 department. An authorized entity shall designate an employee or
2 agent who has completed the training required under this section to
3 be responsible for the storage, maintenance, and general oversight
4 of the auto-injectable epinephrine acquired by the authorized
5 entity.

6 (2) An employee or agent of an authorized entity or other
7 individual, which employee, agent, or individual has completed the
8 training required under this section, may, on the premises of or in
9 connection with the conduct of the business or activity of the
10 authorized entity, use auto-injectable epinephrine prescribed under
11 section 17744a to do any of the following:

12 (a) Provide auto-injectable epinephrine to an individual who
13 the employee, agent, or other individual believes in good faith is
14 experiencing anaphylaxis for immediate self-administration,
15 regardless of whether the individual has a prescription for auto-
16 injectable epinephrine or has previously been diagnosed with an
17 allergy.

18 (b) Administer auto-injectable epinephrine to an individual
19 who the employee, agent, or other individual believes in good faith
20 is experiencing anaphylaxis, regardless of whether the individual
21 has a prescription for auto-injectable epinephrine or has
22 previously been diagnosed with an allergy.

23 (3) Before providing or administering auto-injectable
24 epinephrine made available by an authorized entity, an employee,
25 agent, or other individual described in subsection (2) must
26 complete an initial anaphylaxis training program and a subsequent
27 anaphylaxis training program at least every 2 years following

1 completion of the most recently completed anaphylaxis training
2 program that meets all of the following requirements:

3 (a) Is conducted by a nationally recognized organization
4 experienced in training laypersons in emergency health treatment or
5 by a person, entity, or class of individuals approved by the
6 department **OF HEALTH AND HUMAN SERVICES**.

7 (b) Is conducted online or in person.

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

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

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

13 (iii) Emergency follow-up procedures.

14 (4) An organization, person, entity, or class of individuals
15 that conducts an anaphylaxis training program described in
16 subsection (3) shall issue a certificate, on a form developed or
17 approved by the department **OF HEALTH AND HUMAN SERVICES**, to each
18 individual who successfully completes the anaphylaxis training
19 program.

20 (5) Except as otherwise provided in this subsection, an
21 authorized entity and its employees, agents, and other trained
22 individuals that have acted in accordance with the requirements of
23 subsections (1) to (4); an individual who uses auto-injectable
24 epinephrine obtained in accordance with the requirements of
25 subsections (1) to (4) and made available under subsection (7); or
26 an organization, person, entity, or class of individuals that
27 conducts an anaphylaxis training program described in and conducted

1 in accordance with subsection (3) is not liable for any injuries or
2 related damages that result from the administration or self-
3 administration of auto-injectable epinephrine, the failure to
4 administer auto-injectable epinephrine, or any other act or
5 omission taken pursuant to this section. This subsection does not
6 apply to acts or omissions that constitute willful misconduct or
7 wanton misconduct. The administration of auto-injectable
8 epinephrine as authorized in this section is not the practice of
9 medicine. This section does not eliminate, limit, or reduce any
10 other immunity or defense that may be available under the laws of
11 this state. An authorized entity located in this state is not
12 liable for any injuries or related damages that result from
13 providing or administering auto-injectable epinephrine by its
14 employees or agents outside of this state if either of the
15 following requirements is met:

16 (a) The authorized entity or its employee or agent would not
17 have been liable for the injuries or related damages had the
18 provision or administration occurred in this state.

19 (b) The authorized entity or its employee or agent is not
20 liable for the injuries or related damages under the law of the
21 state in which the provision or administration occurred.

22 (6) An authorized entity shall submit to the department **OF**
23 **HEALTH AND HUMAN SERVICES**, on a form prescribed by the department
24 **OF HEALTH AND HUMAN SERVICES**, a report of each incident on the
25 premises of or in connection with the conduct of the business or
26 activity of the authorized entity that involves the administration
27 of auto-injectable epinephrine. The department **OF HEALTH AND HUMAN**

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

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

20 **(8) AS USED IN THIS SECTION, "AUTHORIZED ENTITY" MEANS AN**
21 **AUTHORIZED ENTITY AS DEFINED IN SECTION 17744A(5) (B) THAT ACQUIRES**
22 **AND STOCKS A SUPPLY OF AUTO-INJECTABLE EPINEPHRINE AS AUTHORIZED IN**
23 **SECTION 17744A.**

24 Enacting section 1. This amendatory act takes effect 90 days
25 after the date it is enacted into law.