

Act No. 221
Public Acts of 2015
Approved by the Governor
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**STATE OF MICHIGAN
98TH LEGISLATURE
REGULAR SESSION OF 2015**

Introduced by Reps. Lyons, Hughes, Cox, Graves, Chatfield, LaVoy, Love, Geiss, Garcia and Derek Miller

ENROLLED HOUSE BILL No. 4438

AN ACT to amend 1978 PA 368, entitled “An act to protect and promote the public health; to codify, revise, consolidate, classify, and add to the laws relating to public health; to provide for the prevention and control of diseases and disabilities; to provide for the classification, administration, regulation, financing, and maintenance of personal, environmental, and other health services and activities; to create or continue, and prescribe the powers and duties of, departments, boards, commissions, councils, committees, task forces, and other agencies; to prescribe the powers and duties of governmental entities and officials; to regulate occupations, facilities, and agencies affecting the public health; to regulate health maintenance organizations and certain third party administrators and insurers; to provide for the imposition of a regulatory fee; to provide for the levy of taxes against certain health facilities or agencies; to promote the efficient and economical delivery of health care services, to provide for the appropriate utilization of health care facilities and services, and to provide for the closure of hospitals or consolidation of hospitals or services; to provide for the collection and use of data and information; to provide for the transfer of property; to provide certain immunity from liability; to regulate and prohibit the sale and offering for sale of drug paraphernalia under certain circumstances; to provide for the implementation of federal law; to provide for penalties and remedies; to provide for sanctions for violations of this act and local ordinances; to provide for an appropriation and supplements; to repeal certain acts and parts of acts; to repeal certain parts of this act; and to repeal certain parts of this act on specific dates,” by amending section 17744a (MCL 333.17744a), as added by 2013 PA 186, and by adding section 17744d.

The People of the State of Michigan enact:

Sec. 17744a. (1) Notwithstanding any provision of this act to the contrary, a prescriber may issue a prescription for and a dispensing prescriber or pharmacist may dispense auto-injectable epinephrine to an authorized entity. When issuing a prescription for or dispensing auto-injectable epinephrine to an authorized entity as authorized under this section, the prescriber, dispensing prescriber, or pharmacist, as appropriate, shall insert the name of the authorized entity as the name of the patient.

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

(3) An authorized entity that is not a school board may acquire and stock a supply of auto-injectable epinephrine under a prescription as authorized in this section. An authorized entity described in this subsection that acquires and stocks a supply of auto-injectable epinephrine is subject to section 17744d.

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

(5) As used in this section, “authorized entity” means any of the following:

(a) A school board for the purpose of meeting the requirements of section 1179a of the revised school code, 1976 PA 451, MCL 380.1179a.

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

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

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

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

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

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

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

(b) Is conducted online or in person.

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

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

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

(iii) Emergency follow-up procedures.

(4) An organization, person, entity, or class of individuals that conducts an anaphylaxis training program described in subsection (3) shall issue a certificate, on a form developed or approved by the department, to each individual who successfully completes the anaphylaxis training program.

(5) Except as otherwise provided in this subsection, an authorized entity and its employees, agents, and other trained individuals that have acted in accordance with the requirements of subsections (1) to (4); an individual who uses auto-injectable epinephrine obtained in accordance with the requirements of subsections (1) to (4) and made available under subsection (7); or an organization, person, entity, or class of individuals that conducts an anaphylaxis training program described in and conducted in accordance with subsection (3) is not liable for any injuries or related damages that result from the administration or self-administration of auto-injectable epinephrine, the failure to administer auto-injectable epinephrine, or any other act or omission taken pursuant to this section. This subsection does not apply to acts or omissions that constitute willful misconduct or wanton misconduct. The administration of auto-injectable epinephrine as authorized in this section is not the practice of medicine. This section does not eliminate, limit, or reduce any other immunity or defense that may be available under the laws of this state. An authorized entity located in this state is not liable for any injuries or related damages that result from providing or administering auto-injectable epinephrine by its employees or agents outside of this state if either of the following requirements is met:

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

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

(6) An authorized entity shall submit to the department, on a form prescribed by the department, a report of each incident on the premises of or in connection with the conduct of the business or activity of the authorized entity that involves the administration of auto-injectable epinephrine. The department shall annually publish a report that summarizes and analyzes all reports submitted to it under this subsection.

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

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

This act is ordered to take immediate effect.



Clerk of the House of Representatives



Secretary of the Senate

Approved

Governor