

HOUSE BILL No. 5592

February 20, 2018, Introduced by Reps. Howrylak, Canfield, Tedder and Inman and referred to the Committee on Health Policy.

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 THE FOLLOWING:

5 (A) **AUTO-INJECTABLE** epinephrine to an authorized entity.

6 (B) **EPINEPHRINE TO A SCHOOL BOARD.**

7 (2) When issuing a prescription for or dispensing auto-
8 injectable epinephrine to an authorized entity as authorized under
9 this section, **OR WHEN ISSUING A PRESCRIPTION FOR OR DISPENSING**

1 **EPINEPHRINE TO A SCHOOL BOARD AS AUTHORIZED UNDER THIS SECTION**, the
 2 prescriber, dispensing prescriber, or pharmacist, as appropriate,
 3 shall insert the name of the authorized entity **OR THE SCHOOL BOARD**
 4 as the name of the patient.

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

11 (4) ~~(3)~~—An authorized entity ~~that is not a school board~~ may
 12 acquire and stock a supply of auto-injectable epinephrine under a
 13 prescription as authorized in this section. An authorized entity
 14 ~~described in this subsection~~ that acquires and stocks a supply of
 15 auto-injectable epinephrine is subject to section 17744d.

16 (5) ~~(4)~~—A prescriber who issues a prescription for or a
 17 dispensing prescriber or pharmacist who dispenses auto-injectable
 18 epinephrine to an authorized entity as authorized under this
 19 section is not liable in a civil action for a properly stored and
 20 dispensed epinephrine auto-injector that was a proximate cause of
 21 injury or death to an individual due to the administration of or
 22 failure to administer the epinephrine auto-injector. **A PRESCRIBER**
 23 **WHO ISSUES A PRESCRIPTION FOR OR A DISPENSING PRESCRIBER OR**
 24 **PHARMACIST WHO DISPENSES EPINEPHRINE TO A SCHOOL BOARD AS**
 25 **AUTHORIZED UNDER THIS SECTION IS NOT LIABLE IN A CIVIL ACTION FOR**
 26 **PROPERLY STORED AND DISPENSED EPINEPHRINE THAT WAS A PROXIMATE**
 27 **CAUSE OF INJURY OR DEATH TO AN INDIVIDUAL DUE TO THE ADMINISTRATION**

1 **OF OR FAILURE TO ADMINISTER THE EPINEPHRINE.**

2 (6) ~~(5)~~ As used in this section: ~~,"authorized~~

3 (A) "AUTHORIZED entity" means ~~any of the following:~~

4 ~~—— (a) A school board for the purpose of meeting the requirements~~
 5 ~~of section 1179a of the revised school code, 1976 PA 451, MCL~~
 6 ~~380.1179a.~~

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

12 (B) "SCHOOL BOARD" MEANS THAT TERM AS DEFINED IN SECTION 1179
 13 OF THE REVISED SCHOOL CODE, 1976 PA 451, MCL 380.1179.

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

26 (2) An employee or agent of an authorized entity or other
 27 individual, which employee, agent, or individual has completed the

1 training required under this section, may, on the premises of or in
2 connection with the conduct of the business or activity of the
3 authorized entity, use auto-injectable epinephrine prescribed under
4 section 17744a to do any of the following:

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

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

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

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

27 (b) Is conducted online or in person.

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

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

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

6 (iii) Emergency follow-up procedures.

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

12 (5) Except as otherwise provided in this subsection, an
13 authorized entity and its employees, agents, and other trained
14 individuals that have acted in accordance with the requirements of
15 subsections (1) to (4); an individual who uses auto-injectable
16 epinephrine obtained in accordance with the requirements of
17 subsections (1) to (4) and made available under subsection (7); or
18 an organization, person, entity, or class of individuals that
19 conducts an anaphylaxis training program described in and conducted
20 in accordance with subsection (3) is not liable for any injuries or
21 related damages that result from the administration or self-
22 administration of auto-injectable epinephrine, the failure to
23 administer auto-injectable epinephrine, or any other act or
24 omission taken pursuant to this section. This subsection does not
25 apply to acts or omissions that constitute willful misconduct or
26 wanton misconduct. The administration of auto-injectable
27 epinephrine as authorized in this section is not the practice of

1 medicine. This section does not eliminate, limit, or reduce any
2 other immunity or defense that may be available under the laws of
3 this state. An authorized entity located in this state is not
4 liable for any injuries or related damages that result from
5 providing or administering auto-injectable epinephrine by its
6 employees or agents outside of this state if either of the
7 following requirements is met:

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

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

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

21 (7) An authorized entity may make auto-injectable epinephrine
22 available to an individual other than an employee, agent, or
23 individual described in subsection (2), and the other individual
24 may administer auto-injectable epinephrine to any individual he or
25 she believes in good faith to be experiencing anaphylaxis, if the
26 auto-injectable epinephrine is stored in a locked, secure container
27 and is made available only upon remote authorization by an

1 authorized health care provider after consultation with the
2 authorized health care provider by audio, televideo, or other
3 similar means of electronic communication. Consultation with an
4 authorized health care provider for the purpose of this subsection
5 is not the practice of telemedicine and does not violate any law or
6 rule regulating the authorized health care provider's scope of
7 practice. As used in this subsection, "authorized health care
8 provider" means a prescriber as that term is defined in section
9 17708 other than a licensed dentist, licensed optometrist, or
10 licensed veterinarian.

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

13 Enacting section 2. This amendatory act does not take effect
14 unless Senate Bill No. ____ or House Bill No. 5593 (request no.
15 05508'18) of the 99th Legislature is enacted into law.