

SENATE BILL NO. 417

August 20, 2019, Introduced by Senator LUCIDO and referred to the Committee on Health Policy and Human Services.

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

1 dispensing prescriber or pharmacist may dispense auto-injectable
2 epinephrine to an authorized entity. When issuing a prescription
3 for or dispensing auto-injectable epinephrine to an authorized
4 entity as authorized under this section, the prescriber, dispensing
5 prescriber, or pharmacist, as appropriate, shall insert the name of
6 the authorized entity as the name of the patient.

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

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

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

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

1 failure to administer the epinephrine auto-injector.

2 **(6)** ~~(5)~~—As used in this section, "authorized entity" means any
3 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 person or governmental entity that operates or conducts
8 a business or activity at which allergens capable of causing
9 anaphylaxis may be present, including, but not limited to, a
10 recreation camp, youth sports league, amusement park, nonpublic
11 school, religious institution, or sports arena.

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

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

27 (2) An employee or agent of an authorized entity or other
28 individual, which employee, agent, or individual has completed the
29 training required under this section, may, on the premises of or in

1 connection with the conduct of the business or activity of the
2 authorized entity, use auto-injectable epinephrine prescribed under
3 section 17744a to do any of the following:

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

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

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

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

26 (b) Is conducted online or in person.

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

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

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

3 (iii) Emergency follow-up procedures.

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

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

1 employees or agents outside of this state if either of the
2 following requirements is met:

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

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

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

16 (7) An authorized entity may make auto-injectable epinephrine
17 available to an individual other than an employee, agent, or
18 individual described in subsection (2), and the other individual
19 may administer auto-injectable epinephrine to any individual he or
20 she believes in good faith to be experiencing anaphylaxis, if the
21 auto-injectable epinephrine is stored in a locked, secure container
22 and is made available only upon remote authorization by an
23 authorized health care provider after consultation with the
24 authorized health care provider by audio, televideo, or other
25 similar means of electronic communication. Consultation with an
26 authorized health care provider for the purpose of this subsection
27 is not the practice of telemedicine and does not violate any law or
28 rule regulating the authorized health care provider's scope of
29 practice. As used in this subsection, "authorized health care

1 provider" means a prescriber as that term is defined in section
2 17708 other than a licensed dentist, licensed optometrist, or
3 licensed veterinarian.

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