

LAWS OF DELAWARE
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CHAPTER 122
151st GENERAL ASSEMBLY
FORMERLY
SENATE BILL NO. 55

AN ACT TO AMEND TITLE 16 OF THE DELAWARE CODE RELATING TO SCHOOL ACCESS TO EPINEPHRINE AUTOINJECTORS.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

Section 1. Amend Chapter 30E, Title 16 of the Delaware Code by creating a new Subchapter I before § 3001E that includes §§ 3001E through 3007E by making deletions as shown by strike through and insertions as shown by underline as follows:

Subchapter I. School access to emergency medication.

Section 2. Amend § 3001E, Title 16 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 3001E. Definitions.

~~As used in this chapter:~~ For purposes of this subchapter:

(6) “Without an order” means that the school nurse or trained person may administer emergency medication, as further described within this ~~chapter,~~ subchapter, without an individual prescription from a licensed health-care provider for a person to receive the emergency medication. In lieu of a licensed health-care provider’s order, i.e., an individual prescription, the Division of Public Health will issue guidance ~~for~~ on the administration of emergency medication in the school setting. The Division of Public Health will continue to provide medical emergency standing orders for allergic reactions and anaphylaxis in previously undiagnosed individuals for use by ~~public charter school registered nurses.~~ registered nurses in public school districts and charter schools.

Section 3. Amend Chapter 30E, Title 16 of the Delaware Code by creating a new Subchapter II after § 3007E by making deletions as shown by strike through and insertions as shown by underline as follows:

Subchapter II. Access to epinephrine autoinjectors in institutions of higher education.

§ 3011E. Definitions.

For purposes of this subchapter:

(1) “Administer” means the direct application of an epinephrine autoinjector to the body of an individual.

(2) “Dispensing” means providing 1 or more epinephrine autoinjectors according to an order of a licensed health-care provider.

(3) “Epinephrine autoinjector” means a single-use device used for the automatic injection of a premeasured dose of epinephrine into the human body.

(4) "Institution of higher education" means a public or private educational institution, physically located in this State, that provides a program of education beyond the high school level and awards an associate's, bachelor's, or advanced degree.

(5) "Licensed health-care provider" means a physician or an individual licensed and authorized to write prescriptions for individuals under Title 24.

(6) "Records" means the recordings of interviews and all oral or written reports, statements, minutes, memoranda, charts, statistics, data, and other documentation generated by the State EMS Medical Director.

(7) "Self-administration" means the process whereby an individual gives themselves a single dose of epinephrine from a previously dispensed, properly labeled autoinjector.

§ 3012E. Emergency access to epinephrine autoinjectors.

The Department shall do all of the following:

(1) Promote the safe use of epinephrine autoinjectors at institutions of higher education to reduce deaths from anaphylaxis.

(2) Promulgate regulations to implement this subchapter.

§ 3013E. Epinephrine autoinjectors; prescribing, dispensing, storage.

(a) A licensed health-care provider may prescribe epinephrine autoinjectors in the name of an institution of higher education for use under this subchapter.

(b) A licensed health-care provider or pharmacist may dispense epinephrine autoinjectors under a prescription issued in the name of an institution of higher education.

(c) An institution of higher education may acquire and stock a supply of epinephrine autoinjectors under a prescription issued under this subchapter as follows:

(1) The epinephrine autoinjectors must be stored in a location readily accessible in an emergency.

(2) The epinephrine autoinjectors must be stored in accordance with the epinephrine autoinjector's instructions for use and any additional requirements established by the Department.

(3) An institution of higher education shall designate employees or agents who have completed the training required under § 3015E of this title to be responsible for the storage, maintenance, and general oversight of epinephrine autoinjectors acquired by the institution of higher education.

§ 3014E. Epinephrine autoinjectors; administration.

(a) An employee or agent of an institution of higher education, who has completed the training required under § 3015E of this title may, on the premises of or in connection with the institution of higher education, use epinephrine autoinjectors prescribed under § 3013E of this title as follows:

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

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

(b) An individual who uses an epinephrine autoinjector under subsection (a) of this section must do all of the following:

(1) Notify the appropriate EMS units as soon as possible.

(2) Report the use to the appropriate licensed physician or medical authority, if known.

§ 3015E. Epinephrine autoinjectors; training.

(a) An employee or agent of institution of higher education must complete an anaphylaxis training program before providing or administering an epinephrine autoinjector made available by an institution of higher education. The training must be conducted by a nationally-recognized organization experienced in training laypersons in emergency health treatment or an entity or individual approved by the Department. Training may be conducted online or in person and, at a minimum, must cover all of the following:

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

(2) Standards and procedures for the storage and administration of an epinephrine autoinjector.

(3) Risks of administering an epinephrine autoinjector that has expired or that was not stored at the proper temperature.

(4) Potential contraindications, risks, side effects, or medication reactions after appropriate use.

(5) The differences in usage, storage, and administration of an EpiPen Jr. autoinjector.

(6) What to do if an individual is at a borderline weight.

(7) Emergency follow-up procedures.

(b) The entity that conducts the training shall issue a certificate, on a form developed or approved by the Department, to each person who successfully completes the anaphylaxis training program.

(c) An individual who successfully completes an anaphylaxis training under this section may use epinephrine autoinjectors prescribed under § 3013E of this title for 2 years from the date of completion on the certificate issued under subsection (b) of this section.

§ 3016E. Epinephrine autoinjectors; immunity.

(a) A licensed health-care provider who prescribes or dispenses an epinephrine autoinjector to an institution of higher education under this subchapter must do so in good faith and with reasonable care. Unless it is established that the licensed health-care provider caused injuries or death as a result of unreasonable care, wilfully, wantonly, or by gross negligence, a licensed health-care provider is not subject to any of the following as a result of prescribing or dispensing an epinephrine autoinjector under this subchapter:

(1) Disciplinary or other adverse action under the professional licensing laws of this State.

(2) Criminal liability.

(3) Liability for damages for injuries or death.

(b) A pharmacist who dispenses an epinephrine autoinjector to an institution of higher education under this subchapter must do so in good faith and with reasonable care. Unless it is established that the pharmacist caused injuries or death as a result of unreasonable care, wilfully, wantonly, or by gross negligence, a pharmacist is not subject to any of the following as a result of dispensing an epinephrine autoinjector under this subchapter:

- (1) Disciplinary or other adverse action under the professional licensing laws of this State.
- (2) Criminal liability.
- (3) Liability for damages for injuries or death.

(c) An institution of higher education that possesses and makes available epinephrine autoinjectors under this subchapter must do so in good faith and with reasonable care. Unless it is established that the institution of higher education caused injuries or death as a result of unreasonable care, wilfully, wantonly, or by gross negligence, an institution of higher education is not subject to any of the following as a result of possessing or making available an epinephrine autoinjector under this subchapter:

- (1) Disciplinary or other adverse action under the professional licensing laws of this State.
- (2) Criminal liability.
- (3) Liability for damages for injuries or death.

(d) An individual who administers or provides an epinephrine autoinjector under this subchapter is exempt from liability under § 6801 of this title.

§ 3017E. Epinephrine autoinjectors; reports.

(a) An institution of higher education that possesses and makes available epinephrine autoinjectors shall submit to the Department, on a form developed by the Department, a report of each incident that involves the administration of the institution of higher education's epinephrine autoinjector.

(b) Records of the State EMS Medical Director, and EMS quality care review committee relating to epinephrine autoinjector reviews and audits are confidential and privileged, protected, and are not subject to discovery, subpoena, or admission into evidence in any judicial or administrative proceeding. Raw data used in any epinephrine autoinjector review or audit is not a public record under Chapter 100 of Title 29 and is confidential under § 1768(b) of Title 24.

(c) The Department shall file an annual report with the General Assembly by January 1 that provides all of the following information for the prior academic year:

- (1) A summary and analysis of all reports submitted under subsection (a) of this section.
- (2) The number of institutions of higher education that received epinephrine autoinjectors under this subchapter.
- (3) The number of individuals trained to administer epinephrine autoinjectors under this subchapter.

Section 4. This Act is effective on enactment and is implemented the earlier of the following:

- (1) One year from the date of the Act's enactment.

(2) On promulgation of final regulations under this Act and the Secretary of the Department of Health and Social Services providing notice to the Registrar of Regulations, published in the Register of Regulations, that the contingency under this paragraph (2) of this section has been fulfilled.

Approved August 10, 2021