

PUBLIC HEALTH CODE (EXCERPT)
Act 368 of 1978

333.17744d Auto-injectable epinephrine; storage, maintenance, general oversight, and use by designated employee or agent; training program; certificate; liability; report; administration by person other than employee, agent, or individual described in subsection (2); "authorized health care provider" defined.

Sec. 17744d.

(1) This section only applies to an authorized entity as defined in section 17744a(6)(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 section, 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 (10); 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 subject to any of the following:

(a) For an authorized entity or person other than an individual described in this subsection, civil liability for injury, death, or 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, if the conduct does not constitute gross negligence as that term is defined in section 7 of 1964 PA 170, MCL 691.1407, that is the proximate cause of the injury, death, or damages.

(b) For an individual described in this subsection, civil liability for injury, death, or 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, if the conduct does not constitute willful or wanton misconduct that is the proximate cause of the injury, death, or damages.

(c) For an authorized entity or person including an individual described in this subsection, criminal prosecution for purchasing, possessing, or distributing auto-injectable epinephrine, 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.

(6) The administration of auto-injectable epinephrine as authorized in this section is not the practice of medicine.

(7) This section does not eliminate, limit, or reduce any other immunity or defense that may be available under the laws of this state.

(8) An authorized entity located in this state is not civilly 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 civilly 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 civilly liable for the injuries or related damages under the law of the state in which the provision or administration occurred.

(9) 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.

(10) 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.

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