

HOUSE BILL 1333

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CF SB 915

By: **Delegates Pena–Melnyk, Costa, Cullison, Frank, Fraser–Hidalgo, Hubbard, Kach, A. Kelly, Murphy, Nathan–Pulliam, Oaks, Reznik, Tarrant, V. Turner, M. Washington, and Zucker**

Introduced and read first time: February 7, 2014

Assigned to: Health and Government Operations

A BILL ENTITLED

AN ACT concerning

Public Health – Emergency Use Auto–Injectable Epinephrine Program

FOR the purpose of establishing the Emergency Use Auto–Injectable Epinephrine Program in the Department of Health and Mental Hygiene; providing for the purpose of the Program; authorizing the Department to adopt certain regulations, collect certain fees, issue and renew certain certificates, and conduct and approve certain training programs relating to the Program; establishing qualifications for applicants for a certain certificate; requiring the Department to issue certain certificates to certain applicants; providing for the contents, replacement, term, and renewal of certain certificates; authorizing certain physicians to prescribe and certain pharmacists to dispense auto–injectable epinephrine to certain certificate holders; authorizing certain certificate holders to take certain actions; providing that a cause of action may not arise against certain certificate holders for certain acts or omissions under certain circumstances; providing that a cause of action may not arise against certain physicians who prescribe or dispense auto–injectable epinephrine and certain paraphernalia to certain certificate holders under certain circumstances; providing that a cause of action may not arise against certain pharmacists who dispense auto–injectable epinephrine and certain paraphernalia to certain certificate holders under certain circumstances; providing for immunity from civil liability for certain individuals under certain circumstances; providing for the effect of certain provisions of this Act; providing for the construction of this Act; requiring certain certificate holders to submit to the Department a certain report; requiring the Department to publish a certain report on or before a certain date each year; defining certain terms; and generally relating to the Emergency Use Auto–Injectable Epinephrine Program.

BY adding to

Article – Health – General

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



Section 13-7A-01 through 13-7A-10 to be under the new subtitle "Subtitle 7A. Emergency Use Auto-Injectable Epinephrine Program"
Annotated Code of Maryland
(2009 Replacement Volume and 2013 Supplement)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That the Laws of Maryland read as follows:

Article – Health – General

SUBTITLE 7A. EMERGENCY USE AUTO-INJECTABLE EPINEPHRINE PROGRAM.

13-7A-01.

(A) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

(B) "AGENT" MEANS AN INDIVIDUAL WHO IS APPOINTED BY A CERTIFICATE HOLDER THAT IS NOT AN INDIVIDUAL TO ADMINISTER AUTO-INJECTABLE EPINEPHRINE IN ACCORDANCE WITH THE PROVISIONS OF THE PROGRAM.

(C) "ANAPHYLAXIS" MEANS A SUDDEN, SEVERE, AND POTENTIALLY LIFE-THREATENING ALLERGIC REACTION THAT OCCURS WHEN AN INDIVIDUAL IS EXPOSED TO AN ALLERGEN.

(D) "AUTO-INJECTABLE EPINEPHRINE" MEANS A PORTABLE, DISPOSABLE DRUG DELIVERY DEVICE THAT CONTAINS A PREMEASURED SINGLE DOSE OF EPINEPHRINE THAT IS USED TO TREAT ANAPHYLAXIS IN AN EMERGENCY SITUATION.

(E) "CERTIFICATE" MEANS A CERTIFICATE ISSUED BY THE DEPARTMENT TO AN AUTHORIZED PERSON TO OBTAIN, STORE, AND ADMINISTER AUTO-INJECTABLE EPINEPHRINE.

(F) "CERTIFICATE HOLDER" MEANS A PERSON WHO IS AUTHORIZED BY THE DEPARTMENT TO OBTAIN, STORE, AND ADMINISTER AUTO-INJECTABLE EPINEPHRINE TO BE USED IN AN EMERGENCY SITUATION.

(G) "PROGRAM" MEANS THE EMERGENCY USE AUTO-INJECTABLE EPINEPHRINE PROGRAM ESTABLISHED UNDER § 13-7A-02 OF THIS SUBTITLE.

13-7A-02.

(A) THERE IS AN EMERGENCY USE AUTO-INJECTABLE EPINEPHRINE PROGRAM IN THE DEPARTMENT.

(B) THE PURPOSE OF THE PROGRAM IS TO PROVIDE A MEANS OF AUTHORIZING PERSONS TO OBTAIN AND STORE AUTO-INJECTABLE EPINEPHRINE AND ADMINISTER AUTO-INJECTABLE EPINEPHRINE TO INDIVIDUALS WHO ARE EXPERIENCING ANAPHYLAXIS WHEN PHYSICIAN OR EMERGENCY MEDICAL SERVICES ARE NOT IMMEDIATELY AVAILABLE.

13-7A-03.

THE DEPARTMENT MAY:

(1) ADOPT REGULATIONS FOR THE ADMINISTRATION OF THE PROGRAM;

(2) COLLECT FEES NECESSARY FOR THE ADMINISTRATION OF THE PROGRAM;

(3) ISSUE AND RENEW CERTIFICATES TO PERSONS MEETING THE REQUIREMENTS OF THIS SUBTITLE; AND

(4) (I) CONDUCT EDUCATIONAL TRAINING PROGRAMS DESCRIBED IN § 13-7A-04(E) OF THIS SUBTITLE; AND

(II) APPROVE EDUCATIONAL TRAINING PROGRAMS CONDUCTED BY OTHER STATE AGENCIES OR PRIVATE ENTITIES.

13-7A-04.

(A) TO QUALIFY FOR A CERTIFICATE, A PERSON SHALL MEET THE REQUIREMENTS OF THIS SECTION.

(B) THE APPLICANT OR AN AGENT OF THE APPLICANT SHALL BE AT LEAST 18 YEARS OLD.

(C) THE APPLICANT SHALL HAVE, OR REASONABLY EXPECT TO HAVE, RESPONSIBILITY FOR AT LEAST ONE OTHER PERSON AS A RESULT OF THE INDIVIDUAL'S OCCUPATION OR VOLUNTEER STATUS.

(D) (1) THE APPLICANT OR AGENT OF THE APPLICANT SHALL SUCCESSFULLY COMPLETE AN EDUCATIONAL TRAINING PROGRAM APPROVED BY THE DEPARTMENT.

(2) EDUCATIONAL TRAINING PROGRAMS REQUIRED UNDER THIS SUBSECTION SHALL:

(I) BE CONDUCTED BY:

1. A PHYSICIAN LICENSED TO PRACTICE MEDICINE IN THE STATE UNDER TITLE 14 OF THE HEALTH OCCUPATIONS ARTICLE;

2. A NURSE PRACTITIONER WHO IS LICENSED TO PRACTICE REGISTERED NURSING IN THE STATE UNDER TITLE 8 OF THE HEALTH OCCUPATIONS ARTICLE AND IS CERTIFIED AS A NURSE PRACTITIONER BY THE STATE BOARD OF NURSING;

3. A NATIONALLY RECOGNIZED ORGANIZATION EXPERIENCED IN TRAINING LAYPERSONS IN EMERGENCY MEDICAL TREATMENT; OR

4. ANY OTHER PERSON APPROVED BY THE DEPARTMENT; AND

(II) INCLUDE TRAINING IN:

1. THE RECOGNITION OF THE SYMPTOMS OF ANAPHYLAXIS;

2. PROCEDURES FOR THE EMERGENCY ADMINISTRATION OF AUTO-INJECTABLE EPINEPHRINE;

3. THE PROPER FOLLOW-UP EMERGENCY PROCEDURES AFTER ADMINISTRATION OF AUTO-INJECTABLE EPINEPHRINE; AND

4. STANDARDS AND PROCEDURES FOR OBTAINING, AND THE PROPER AND SECURE STORAGE OF, AUTO-INJECTABLE EPINEPHRINE.

13-7A-05.

AN APPLICANT FOR A CERTIFICATE SHALL:

(1) SUBMIT AN APPLICATION TO THE DEPARTMENT ON THE FORM THAT THE DEPARTMENT REQUIRES; AND

(2) PAY TO THE DEPARTMENT THE APPLICATION FEE SET BY THE DEPARTMENT.

13-7A-06.

(A) THE DEPARTMENT SHALL ISSUE A CERTIFICATE TO ANY APPLICANT WHO MEETS THE REQUIREMENTS OF THIS SUBTITLE.

(B) EACH CERTIFICATE SHALL INCLUDE:

(1) THE FULL NAME OF THE CERTIFICATE HOLDER; AND

(2) A SERIAL NUMBER.

(C) A REPLACEMENT CERTIFICATE MAY BE ISSUED TO REPLACE A LOST, DESTROYED, OR MUTILATED CERTIFICATE IF THE CERTIFICATE HOLDER PAYS THE CERTIFICATE REPLACEMENT FEE.

(D) (1) THE CERTIFICATE SHALL BE VALID FOR 2 YEARS.

(2) TO RENEW THE CERTIFICATE FOR AN ADDITIONAL 2-YEAR TERM, THE APPLICANT OR THE AGENT OF THE APPLICANT SHALL:

(I) SUCCESSFULLY COMPLETE A REFRESHER TRAINING PROGRAM APPROVED BY THE DEPARTMENT; OR

(II) DEMONSTRATE PROFICIENCY TO THE DEPARTMENT.

13-7A-07.

(A) (1) A PHYSICIAN LICENSED TO PRACTICE MEDICINE IN THE STATE MAY PRESCRIBE AUTO-INJECTABLE EPINEPHRINE IN THE NAME OF A CERTIFICATE HOLDER.

(2) A PHARMACIST LICENSED TO PRACTICE PHARMACY IN THE STATE OR A PHYSICIAN MAY DISPENSE AUTO-INJECTABLE EPINEPHRINE UNDER A PRESCRIPTION ISSUED TO A CERTIFICATE HOLDER.

(B) A CERTIFICATE HOLDER MAY:

(1) ON PRESENTMENT OF A CERTIFICATE, RECEIVE FROM ANY PHYSICIAN LICENSED TO PRACTICE MEDICINE IN THE STATE A PRESCRIPTION

FOR AUTO-INJECTABLE EPINEPHRINE AND THE NECESSARY PARAPHERNALIA FOR THE ADMINISTRATION OF AUTO-INJECTABLE EPINEPHRINE;

(2) POSSESS AND STORE PRESCRIBED AUTO-INJECTABLE EPINEPHRINE AND THE NECESSARY PARAPHERNALIA FOR THE ADMINISTRATION OF AUTO-INJECTABLE EPINEPHRINE; AND

(3) IN AN EMERGENCY SITUATION WHEN PHYSICIAN OR EMERGENCY MEDICAL SERVICES ARE NOT IMMEDIATELY AVAILABLE, ADMINISTER AUTO-INJECTABLE EPINEPHRINE TO AN INDIVIDUAL WHO IS EXPERIENCING OR BELIEVED IN GOOD FAITH BY THE CERTIFICATE HOLDER TO BE EXPERIENCING ANAPHYLAXIS.

13-7A-08.

(A) A CAUSE OF ACTION MAY NOT ARISE AGAINST A CERTIFICATE HOLDER FOR ANY ACT OR OMISSION IF THE CERTIFICATE HOLDER IS ACTING IN GOOD FAITH WHILE RENDERING EMERGENCY TREATMENT TO AN INDIVIDUAL WHO IS EXPERIENCING OR BELIEVED BY THE CERTIFICATE HOLDER TO BE EXPERIENCING ANAPHYLAXIS UNLESS THE CONDUCT OF THE CERTIFICATE HOLDER AMOUNTS TO GROSS NEGLIGENCE, WILLFUL OR WANTON MISCONDUCT, OR INTENTIONALLY TORTIOUS CONDUCT.

(B) (1) A CAUSE OF ACTION MAY NOT ARISE AGAINST ANY PHYSICIAN FOR ANY ACT OR OMISSION IF THE PHYSICIAN IN GOOD FAITH PRESCRIBES OR DISPENSES AUTO-INJECTABLE EPINEPHRINE AND THE NECESSARY PARAPHERNALIA FOR THE ADMINISTRATION OF AUTO-INJECTABLE EPINEPHRINE TO AN INDIVIDUAL CERTIFIED BY THE DEPARTMENT UNDER § 13-7A-06 OF THIS SUBTITLE.

(2) A CAUSE OF ACTION MAY NOT ARISE AGAINST ANY PHARMACIST FOR ANY ACT OR OMISSION IF THE PHARMACIST IN GOOD FAITH DISPENSES AUTO-INJECTABLE EPINEPHRINE AND THE NECESSARY PARAPHERNALIA FOR THE ADMINISTRATION OF AUTO-INJECTABLE EPINEPHRINE TO AN INDIVIDUAL CERTIFIED BY THE DEPARTMENT UNDER § 13-7A-06 OF THIS SUBTITLE.

(C) THIS SECTION DOES NOT AFFECT ANY IMMUNITIES FROM CIVIL LIABILITY OR DEFENSES ESTABLISHED BY ANY OTHER PROVISION OF STATUTORY LAW OR BY COMMON LAW TO WHICH A VOLUNTEER, PHYSICIAN, OR PHARMACIST MAY BE ENTITLED.

13-7A-09.

(A) THIS SUBTITLE MAY NOT BE CONSTRUED TO CREATE A DUTY ON ANY INDIVIDUAL TO OBTAIN A CERTIFICATE UNDER THIS SUBTITLE, AND AN INDIVIDUAL MAY NOT BE HELD CIVILLY LIABLE FOR FAILING TO OBTAIN A CERTIFICATE UNDER THIS SUBTITLE.

(B) AN INDIVIDUAL MAY NOT BE HELD CIVILLY LIABLE IN ANY ACTION ARISING FROM OR IN CONNECTION WITH THE ADMINISTRATION OF AUTO-INJECTABLE EPINEPHRINE BY THE INDIVIDUAL SOLELY BECAUSE THE INDIVIDUAL DID NOT POSSESS A CERTIFICATE ISSUED UNDER THIS SUBTITLE.

13-7A-10.

(A) A CERTIFICATE HOLDER SHALL SUBMIT TO THE DEPARTMENT, ON A FORM REQUIRED BY THE DEPARTMENT, A REPORT OF EACH INCIDENT THAT OCCURRED ON THE CERTIFICATE HOLDER'S PREMISES THAT INVOLVED THE ADMINISTRATION OF AUTO-INJECTABLE EPINEPHRINE.

(B) ON OR BEFORE JANUARY 31 OF EACH YEAR, THE DEPARTMENT SHALL PUBLISH A REPORT SUMMARIZING THE INFORMATION OBTAINED FROM THE REPORTS SUBMITTED TO THE DEPARTMENT UNDER SUBSECTION (A) OF THIS SECTION.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2014.