

SENATE BILL 344

J1

5lr1614
CF 5lr1177

By: **Senators Pugh, Astle, Guzzone, Kagan, and Klausmeier**

Introduced and read first time: February 6, 2015

Assigned to: Finance and Judicial Proceedings

A BILL ENTITLED

1 AN ACT concerning

2 **Public Health – Emergency Use Auto–Injectable Epinephrine Program**

3 FOR the purpose of establishing the Emergency Use Auto–Injectable Epinephrine Program
4 in the Department of Health and Mental Hygiene; providing for the purpose of the
5 Program; authorizing the Department to adopt certain regulations, collect certain
6 fees, issue and renew certain certificates, and approve certain training programs
7 relating to the Program; establishing qualifications for applicants for a certain
8 certificate; requiring the Department to issue certain certificates to certain
9 applicants; providing for the contents, replacement, term, and renewal of certain
10 certificates; authorizing certain physicians to prescribe and certain pharmacists to
11 dispense auto–injectable epinephrine to certain certificate holders; authorizing
12 certain certificate holders to take certain actions; providing that a cause of action
13 may not arise against certain certificate holders for certain acts or omissions under
14 certain circumstances; providing that a cause of action may not arise against certain
15 physicians who prescribe or dispense auto–injectable epinephrine and certain
16 paraphernalia to certain certificate holders under certain circumstances; providing
17 that a cause of action may not arise against certain pharmacists who dispense
18 auto–injectable epinephrine and certain paraphernalia to certain certificate holders
19 under certain circumstances; providing for immunity from civil liability for certain
20 individuals under certain circumstances; providing for the effect of certain provisions
21 of this Act; providing for the construction of this Act; requiring certain certificate
22 holders to submit to the Department a certain report; requiring the Department to
23 publish a certain report on or before a certain date each year; defining certain terms;
24 and generally relating to the Emergency Use Auto–Injectable Epinephrine Program.

25 BY adding to

26 Article – Health – General

27 Section 13–7A–01 through 13–7A–10 to be under the new subtitle “Subtitle 7A.
28 Emergency Use Auto–Injectable Epinephrine Program”

29 Annotated Code of Maryland

30 (2009 Replacement Volume and 2014 Supplement)

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



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

3 **Article – Health – General**

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

5 **13-7A-01.**

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

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

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

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

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

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

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

26 **13-7A-02.**

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

29 (B) THE PURPOSE OF THE PROGRAM IS TO PROVIDE A MEANS OF
30 AUTHORIZING PERSONS TO OBTAIN AND STORE AUTO-INJECTABLE EPINEPHRINE

1 AND ADMINISTER AUTO-INJECTABLE EPINEPHRINE TO INDIVIDUALS WHO ARE
2 EXPERIENCING ANAPHYLAXIS WHEN PHYSICIAN OR EMERGENCY MEDICAL
3 SERVICES ARE NOT IMMEDIATELY AVAILABLE.

4 **13-7A-03.**

5 **THE DEPARTMENT MAY:**

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

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

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

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

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

16 **13-7A-04.**

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

19 (B) THE APPLICANT OR AN AGENT OF THE APPLICANT SHALL BE AT LEAST
20 18 YEARS OLD.

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

24 (D) (1) THE APPLICANT OR AGENT OF THE APPLICANT SHALL
25 SUCCESSFULLY COMPLETE, AT THE EXPENSE OF THE APPLICANT, AN EDUCATIONAL
26 TRAINING PROGRAM OFFERED BY:

27 (I) THE AMERICAN RED CROSS;

28 (II) THE AMERICAN CPR CARE ASSOCIATION;

1 (III) A NATIONALLY RECOGNIZED ORGANIZATION EXPERIENCED
2 IN TRAINING LAYPERSONS IN EMERGENCY MEDICAL TREATMENT; OR

3 (IV) ANY OTHER PERSON APPROVED BY THE DEPARTMENT.

4 (2) THE EDUCATIONAL TRAINING PROGRAM REQUIRED UNDER
5 PARAGRAPH (1) OF THIS SUBSECTION MAY BE AN ONLINE TRAINING PROGRAM.

6 **13-7A-05.**

7 AN APPLICANT FOR A CERTIFICATE SHALL:

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

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

12 **13-7A-06.**

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

15 (B) EACH CERTIFICATE SHALL INCLUDE:

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

17 (2) A SERIAL NUMBER.

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

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

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

24 (I) SUCCESSFULLY COMPLETE A REFRESHER TRAINING
25 PROGRAM REQUIRED UNDER § 13-7A-04 OF THIS SUBTITLE; OR

26 (II) DEMONSTRATE PROFICIENCY TO THE DEPARTMENT.

1 **13-7A-07.**

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

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

8 (B) A CERTIFICATE HOLDER MAY:

9 (1) ON PRESENTMENT OF A CERTIFICATE, RECEIVE FROM ANY
10 PHYSICIAN LICENSED TO PRACTICE MEDICINE IN THE STATE A PRESCRIPTION FOR
11 AUTO-INJECTABLE EPINEPHRINE AND THE NECESSARY PARAPHERNALIA FOR THE
12 ADMINISTRATION OF AUTO-INJECTABLE EPINEPHRINE;

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

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

21 **13-7A-08.**

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

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

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

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

10 **13-7A-09.**

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

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

19 **13-7A-10.**

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

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

28 **SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect**
29 **October 1, 2015.**