

# HOUSE BILL 1473

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By: **Delegates Pena–Melnyk, Angel, B. Barnes, Barron, Bromwell, Cullison, Frush, Hayes, Kelly, Kipke, McDonough, Morgan, Saab, Sample–Hughes, Szeliga, Tarlau, Valentino–Smith, West, and K. Young**

Introduced and read first time: February 9, 2018

Assigned to: Health and Government Operations

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## A BILL ENTITLED

1 AN ACT concerning

2 **Public Health – Emergency Use Auto–Injectable Epinephrine Program for Food**  
3 **Service Facilities at Institutions of Higher Education**

4 FOR the purpose of establishing the Emergency Use Auto–Injectable Epinephrine Program  
5 for food service facilities at eligible institutions of higher education; providing for the  
6 purpose of the Program; requiring the Maryland Department of Health to adopt  
7 certain regulations, collect certain fees, issue and renew certain certificates, approve  
8 certain training programs relating to the Program, develop a method by which  
9 certain reports may be made, and publish a certain report on or before a certain date  
10 each year; authorizing the Department to set certain fees and to establish procedures  
11 to apply to the Program; establishing qualifications for applicants for a certain  
12 certificate; authorizing certain certificate holders and agents to take certain actions;  
13 requiring the Department to issue certain certificates to certain applicants;  
14 providing for the contents, replacement, term, and renewal of certain certificates;  
15 authorizing certain physicians to prescribe and certain pharmacists and physicians  
16 to dispense auto–injectable epinephrine to certain certificate holders; authorizing a  
17 certificate holder or an agent to administer auto–injectable epinephrine to a certain  
18 individual in certain circumstances; providing that a cause of action may not arise  
19 against certain certificate holders or certain agents for certain acts or omissions  
20 under certain circumstances; providing that a cause of action may not arise against  
21 certain physicians who prescribe or dispense auto–injectable epinephrine and  
22 certain paraphernalia to certain certificate holders under certain circumstances;  
23 providing that a cause of action may not arise against certain pharmacists who  
24 dispense auto–injectable epinephrine and certain paraphernalia to certain  
25 certificate holders under certain circumstances; providing that certain individuals  
26 may not be liable for not taking certain actions; providing immunity from civil  
27 liability for certain individuals under certain circumstances; requiring certain  
28 certificate holders to submit to the Department certain reports; providing for the  
29 construction of this Act; requiring the Department to publish a certain report on or

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 before a certain date each year; defining certain terms; and generally relating to the  
2 Emergency Use Auto-Injectable Epinephrine Program.

3 BY adding to

4 Article – Health – General

5 Section 13-7A-01 through 13-7A-09 to be under the new subtitle “Subtitle 7A.  
6 Emergency Use Auto-Injectable Epinephrine Program for Food Service  
7 Facilities at Institutions of Higher Education”

8 Annotated Code of Maryland

9 (2015 Replacement Volume and 2017 Supplement)

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

12 **Article – Health – General**

13 **SUBTITLE 7A. EMERGENCY USE AUTO-INJECTABLE EPINEPHRINE PROGRAM FOR**  
14 **FOOD SERVICE FACILITIES AT INSTITUTIONS OF HIGHER EDUCATION.**

15 **13-7A-01.**

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

18 (B) “AGENT” MEANS AN INDIVIDUAL WHO:

19 (1) IS AT LEAST 18 YEARS OF AGE;

20 (2) HAS SUCCESSFULLY COMPLETED, AT THE EXPENSE OF THE  
21 APPLICANT, AN EDUCATIONAL TRAINING PROGRAM APPROVED BY THE  
22 DEPARTMENT UNDER § 13-7A-03 OF THIS SUBTITLE; AND

23 (3) IS DESIGNATED BY A CERTIFICATE HOLDER TO ADMINISTER  
24 AUTO-INJECTABLE EPINEPHRINE IN ACCORDANCE WITH THE PROVISIONS OF THIS  
25 SUBTITLE.

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

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

32 (E) “CERTIFICATE” MEANS A CERTIFICATE ISSUED BY THE DEPARTMENT

1 TO AN INDIVIDUAL TO OBTAIN, STORE, AND ADMINISTER AUTO-INJECTABLE  
2 EPINEPHRINE.

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

6 (G) "ELIGIBLE INSTITUTION" MEANS AN INSTITUTION OF HIGHER  
7 EDUCATION THAT HAS A FOOD SERVICE FACILITY ON THE PREMISES.

8 (H) "FOOD SERVICE FACILITY" HAS THE MEANING INDICATED IN § 21-301  
9 OF THIS ARTICLE.

10 (I) "PROGRAM" MEANS THE EMERGENCY USE AUTO-INJECTABLE  
11 EPINEPHRINE PROGRAM FOR FOOD SERVICE FACILITIES AT INSTITUTIONS OF  
12 HIGHER EDUCATION ESTABLISHED UNDER § 13-7A-02 OF THIS SUBTITLE.

13 13-7A-02.

14 (A) THERE IS AN EMERGENCY USE AUTO-INJECTABLE EPINEPHRINE  
15 PROGRAM FOR FOOD SERVICE FACILITIES AT INSTITUTIONS OF HIGHER  
16 EDUCATION.

17 (B) THE PURPOSE OF THE PROGRAM IS TO AUTHORIZE INDIVIDUALS  
18 EMPLOYED BY A FOOD SERVICE FACILITY AT AN ELIGIBLE INSTITUTION TO OBTAIN  
19 AND STORE AUTO-INJECTABLE EPINEPHRINE AND ADMINISTER AUTO-INJECTABLE  
20 EPINEPHRINE TO INDIVIDUALS WHO ARE EXPERIENCING OR ARE BELIEVED TO BE  
21 EXPERIENCING ANAPHYLAXIS WHEN A PHYSICIAN OR EMERGENCY MEDICAL  
22 SERVICES ARE NOT IMMEDIATELY AVAILABLE.

23 13-7A-03.

24 (A) THE DEPARTMENT SHALL:

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

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

29 (3) ISSUE A CERTIFICATE TO, OR RENEW THE CERTIFICATE OF, AN  
30 INDIVIDUAL MEETING THE REQUIREMENTS OF § 13-7A-04 OF THIS SUBTITLE;

1           **(4) APPROVE EDUCATIONAL TRAINING PROGRAMS, INCLUDING**  
2 **PROGRAMS CONDUCTED BY OTHER STATE AGENCIES OR PRIVATE ENTITIES;**

3           **(5) DEVELOP A METHOD BY WHICH CERTIFICATE HOLDERS MAY**  
4 **SUBMIT A REPORT TO THE DEPARTMENT ABOUT EACH INCIDENT THAT OCCURRED**  
5 **ON THE PREMISES OF A FOOD SERVICE FACILITY AT AN ELIGIBLE INSTITUTION THAT**  
6 **INVOLVED THE ADMINISTRATION OF AUTO-INJECTABLE EPINEPHRINE BY A**  
7 **CERTIFICATE HOLDER OR AN AGENT; AND**

8           **(6) ON OR BEFORE JANUARY 31 EACH YEAR, PUBLISH A REPORT**  
9 **SUMMARIZING THE INFORMATION OBTAINED FROM REPORTS SUBMITTED TO THE**  
10 **DEPARTMENT UNDER ITEM (5) OF THIS SUBSECTION.**

11           **(B) THE DEPARTMENT MAY:**

12           **(1) SET AN APPLICATION FEE FOR A CERTIFICATE;**

13           **(2) ESTABLISH A FEE FOR THE RENEWAL OR REPLACEMENT OF A**  
14 **CERTIFICATE; AND**

15           **(3) REQUIRE APPLICANTS TO APPLY TO THE PROGRAM IN THE**  
16 **MANNER THE DEPARTMENT CHOOSES.**

17           **(C) AN EDUCATIONAL TRAINING PROGRAM APPROVED BY THE**  
18 **DEPARTMENT UNDER SUBSECTION (A)(4) OF THIS SECTION MAY BE AN ONLINE**  
19 **TRAINING PROGRAM.**

20 **13-7A-04.**

21           **TO QUALIFY FOR A CERTIFICATE, AN APPLICANT SHALL:**

22           **(1) BE EMPLOYED BY A FOOD SERVICE FACILITY AT AN ELIGIBLE**  
23 **INSTITUTION;**

24           **(2) SUCCESSFULLY COMPLETE, AT THE EXPENSE OF THE APPLICANT,**  
25 **AN EDUCATIONAL TRAINING PROGRAM APPROVED BY THE DEPARTMENT UNDER §**  
26 **13-7A-03 OF THIS SUBTITLE;**

27           **(3) SUBMIT AN APPLICATION TO THE DEPARTMENT IN A MANNER**  
28 **REQUIRED BY THE DEPARTMENT UNDER § 13-7A-03 OF THIS SUBTITLE; AND**

29           **(4) PAY TO THE DEPARTMENT AN APPLICATION FEE REQUIRED**  
30 **UNDER § 13-7A-03 OF THIS SUBTITLE.**

1 **13-7A-05.**

2 (A) THE DEPARTMENT SHALL ISSUE A CERTIFICATE TO ANY APPLICANT  
3 WHO MEETS THE REQUIREMENTS OF § 13-7A-04 OF THIS SUBTITLE.

4 (B) EACH CERTIFICATE SHALL INCLUDE:

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

6 (2) A SERIAL NUMBER.

7 (C) A REPLACEMENT CERTIFICATE MAY BE ISSUED TO REPLACE A LOST,  
8 DESTROYED, OR MUTILATED CERTIFICATE IF THE CERTIFICATE HOLDER PAYS A  
9 CERTIFICATE REPLACEMENT FEE SET BY THE DEPARTMENT.

10 (D) (1) A CERTIFICATE SHALL BE VALID FOR A TERM OF 2 YEARS.

11 (2) TO RENEW A CERTIFICATE FOR AN ADDITIONAL 2-YEAR TERM,  
12 THE RENEWAL APPLICANT SHALL SUCCESSFULLY COMPLETE A REFRESHER  
13 EDUCATIONAL TRAINING PROGRAM APPROVED BY THE DEPARTMENT UNDER §  
14 13-7A-03 OF THIS SUBTITLE.

15 **13-7A-06.**

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

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

22 (B) A CERTIFICATE HOLDER MAY:

23 (1) ON PRESENTMENT OF A CERTIFICATE, RECEIVE FROM ANY  
24 PHYSICIAN LICENSED TO PRACTICE MEDICINE IN THE STATE A PRESCRIPTION FOR  
25 AUTO-INJECTABLE EPINEPHRINE AND THE NECESSARY PARAPHERNALIA FOR THE  
26 ADMINISTRATION OF AUTO-INJECTABLE EPINEPHRINE; AND

27 (2) POSSESS AND STORE PRESCRIBED AUTO-INJECTABLE  
28 EPINEPHRINE AND THE NECESSARY PARAPHERNALIA FOR THE ADMINISTRATION OF  
29 AUTO-INJECTABLE EPINEPHRINE.

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

6 13-7A-07.

7 (A) A CAUSE OF ACTION MAY NOT ARISE AGAINST A CERTIFICATE HOLDER  
8 OR AN AGENT FOR ANY ACT OR OMISSION IF THE CERTIFICATE HOLDER OR AGENT  
9 IS ACTING IN GOOD FAITH WHILE ADMINISTERING AUTO-INJECTABLE EPINEPHRINE  
10 TO AN INDIVIDUAL WHO IS EXPERIENCING OR BELIEVED BY THE CERTIFICATE  
11 HOLDER OR AGENT TO BE EXPERIENCING ANAPHYLAXIS EXCEPT WHERE THE  
12 CONDUCT OF THE CERTIFICATE HOLDER OR AGENT AMOUNTS TO GROSS  
13 NEGLIGENCE, WILLFUL OR WANTON MISCONDUCT, OR INTENTIONALLY TORTIOUS  
14 CONDUCT.

15 (B) (1) A CAUSE OF ACTION MAY NOT ARISE AGAINST ANY PHYSICIAN FOR  
16 ANY ACT OR OMISSION IF THE PHYSICIAN IN GOOD FAITH PRESCRIBES OR  
17 DISPENSES AUTO-INJECTABLE EPINEPHRINE AND THE NECESSARY  
18 PARAPHERNALIA FOR THE ADMINISTRATION OF AUTO-INJECTABLE EPINEPHRINE  
19 TO AN INDIVIDUAL CERTIFIED BY THE DEPARTMENT UNDER § 13-7A-05 OF THIS  
20 SUBTITLE.

21 (2) A CAUSE OF ACTION MAY NOT ARISE AGAINST ANY PHARMACIST  
22 FOR ANY ACT OR OMISSION IF THE PHARMACIST IN GOOD FAITH DISPENSES  
23 AUTO-INJECTABLE EPINEPHRINE AND THE NECESSARY PARAPHERNALIA FOR THE  
24 ADMINISTRATION OF AUTO-INJECTABLE EPINEPHRINE TO AN INDIVIDUAL  
25 CERTIFIED BY THE DEPARTMENT UNDER § 13-7A-05 OF THIS SUBTITLE.

26 (C) THIS SECTION DOES NOT AFFECT AND MAY NOT BE CONSTRUED AS  
27 AFFECTING ANY IMMUNITIES FROM CIVIL LIABILITY OR DEFENSES ESTABLISHED BY  
28 ANY OTHER PROVISION OF LAW OR BY COMMON LAW TO WHICH A PHYSICIAN OR  
29 PHARMACIST MAY BE ENTITLED.

30 13-7A-08.

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

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

5 **13-7A-09.**

6           **A CERTIFICATE HOLDER SHALL SUBMIT TO THE DEPARTMENT, IN THE**  
7 **MANNER REQUIRED UNDER § 13-7A-03 OF THIS SUBTITLE, A REPORT OF EACH**  
8 **INCIDENT THAT OCCURRED ON THE PREMISES OF A FOOD SERVICE FACILITY AT AN**  
9 **ELIGIBLE INSTITUTION THAT INVOLVED THE ADMINISTRATION OF**  
10 **AUTO-INJECTABLE EPINEPHRINE BY A CERTIFICATE HOLDER OR AN AGENT.**

11           **SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect**  
12 **October 1, 2018.**